

GENERAL  
LAWS OF PENNSYLVANIA,

FROM THE YEAR 1700, TO APRIL 22, 1846,

CHRONOLOGICALLY ARRANGED :

WITH

NOTES AND REFERENCES

TO ALL THE DECISIONS

OF THE

SUPREME COURT OF PENNSYLVANIA

GIVING CONSTRUCTION TO SAID LAWS :

AND A COPIOUS INDEX.



COMPILED BY

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OF PITTSBURGH.

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PHILADELPHIA:

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No. 197 CHESNUT STREET.

1847.

1822. son or persons so offending, shall for each and every such offence, forfeit and pay the sum of five dollars, which may be sued for and recovered in the same manner as debts of a like amount are by law recoverable, for the use of the poor of the city, district or township, in which the fine shall have been incurred: *Provided*, That the provisions of the third and fourth sections of this act shall not be so construed as to extend to such dry measures as shall be used by the proprietor thereof, only upon his or her farm or plantation.

Passed 2d April, 1822.—7 Sm. L. p. 571.

## CHAPTER CCLXXIV.

### AN ACT FOR THE REGULATION OF THE MILITIA OF THIS COMMONWEALTH.

16 divi-  
sions.

I. The commonwealth of Pennsylvania shall be divided and organized into military divisions, as follows, to wit:

*First Division*—city and county of Philadelphia.

*Second Division*—counties of Bucks and Montgomery.

*Third Division*—counties of Chester and Delaware.

*Fourth Division*—county of Lancaster.

*Fifth Division*—counties of York and Adams.

*Sixth Division*—counties of Dauphin, Lebanon, Berks and Schuylkill.

*Seventh Division*—counties of Northampton, Pike, and Lehigh.

*Eighth Division*—counties of Northumberland, Union, Columbia, Luzerne, Susquehanna and Wayne.

*Ninth Division*—counties of Lycoming, Potter, M'Kean, Bradford and Tioga.

*Tenth Division*—counties of Mifflin, Centre, Huntingdon and Clearfield.

*Eleventh Division*—counties of Cumberland, Perry and Franklin.

*Twelfth Division*—counties of Bedford, Somerset and Cambria.

*Thirteenth Division*—counties of Westmoreland and Fayette.

*Fourteenth Division*—counties of Washington and Greene.

*Fifteenth Division*—counties of Allegheny, Armstrong, Indiana, and Jefferson.

*Sixteenth Division*—counties of Beaver, Butler, Mercer, Crawford, Erie, Venango and Warren.

Of two bri-  
gades as  
organized.

II. Each division shall consist of two brigades, as at present organized; but when, in the opinion of the major general and the brigadier generals, of any division it may be deemed useful and necessary to form a third brigade, within the bounds of such division, they are hereby authorized to do so, making the said brigades as nearly equal in strength as circumstances will permit.

Each bri-  
gade of the  
number of  
regiments  
now be-  
longing.

III. Each brigade shall consist of the number of regiments now belonging to the same; but when, in the opinion of the brigadier general and the colonels of the regiments of any brigade, it may be deemed useful and necessary to form an additional regiment or regiments within the bounds of such brigade, they are hereby authorized to do so: *Provided however*, That no brigade shall contain less than two thousand one hundred men, nor consist of less than three nor more than five regiments, and they shall be as equal in point of strength as circumstances will permit. And each regiment shall consist of two battalions, also as nearly equally divided in strength as conveniently may be; and each battalion shall have the same number of companies if practicable. The regiments of militia in this commonwealth shall retain their present numbers, and every new regiment formed shall be numbered by the adjutant general. And the said regiments and battalions shall take rank according to the number of the same, reckoning the lowest in number to be the highest in rank. But the adjutant general shall be authorized once in every seven years, to make any other general arrangement in the number of the regiments; and if any such arrangement is made by him, he is hereby required to give notice of the same to the several bri-

Each regi-  
ment of two  
battalions.  
Old regi-  
ments to  
retain their  
numbers.

Adjutant  
general to  
make ar-  
range-  
ments.

gade inspectors, and the regiments shall thenceforth have and bear the numbers made according to said arrangement, and a record of the same shall be filed by the Adjutant general in his office, and also in the office of the secretary of the commonwealth. Each regiment of militia shall contain at least seven hundred men, and be entitled to a stand of colours at the expense of the state. 1822.

IV. Each regiment shall consist of the number of companies now attached to the same; but when, in the opinion of a majority of the field officers of any regiment, it may be deemed useful and necessary to create an additional company or companies within the bounds of such regiment, they are hereby authorized to do so: *Provided however*, That the number of companies in each regiment shall not be less than eight, nor more than twelve, nor the number of non-commissioned officers and privates in each company less than seventy, nor more than one hundred and fifty. Each regiment to consist of the number of companies now attached.

V. Whenever the major general and brigadier generals of any division may be of opinion that a better organization of the brigades and regiments of said division may be made, by attaching one part of a brigade to another, they are hereby authorized to make such arrangement; of which they shall notify the brigade inspectors, who shall give notice to the commanding officers of the regiments affected thereby. Major general, &c. to make other arrangements, &c.

VI. Whenever the brigadier general may be of opinion that a better organization of the regiments or companies his brigade may be made, by attaching one part of a regiment to another, he is hereby authorized to make such arrangement, with the assent of the commanding officer of said regiments; of which notice shall be given to the brigade inspector and to the captains of the companies to be affected thereby. New arrangement.

VII. Whenever a majority of the field officers of any regiment may be of opinion that a better organization of the companies of said regiment may be made, by transferring part of one company to another, they are hereby authorized to make such arrangement; of which the majors of the battalions to which any such company may belong, shall give notice to the captain or commanding officer thereof; and shall also give notice thereof to the proper brigade inspector, stating particularly the alterations so made. Field officers may re-organize companies.

VIII. Every free able bodied white male person who has resided within this commonwealth for one month, and is between the ages of eighteen and forty-five, except those hereinafter enumerated, shall be enrolled in the militia of this commonwealth, the vice president of the United States, the judicial and executive officers of the United States, members of congress, custom house officers, stage drivers employed conveying the mail of the United States, ferrymen employed on any post road while in the actual performance of that duty, post masters, inspectors of exports, pilots and mariners actually employed in the sea service, and ministers of religion, teachers in universities, academies and schools while so employed, and who have been so employed for at least one year before, members of the board of health, directors and controllers of the public schools of the first school district in this commonwealth, judges of the supreme and district courts, and courts of common pleas, the mayors and recorders of cities, and the menial servants of foreign ambassadors, ministers and consuls, sheriffs, jailers and keepers of workhouses shall be exempted from militia duty. Who to be enrolled. Who to be exempted.

And every person within the ages before mentioned shall be considered an able bodied man, unless he shall produce to the commanding officer of the proper regiment, a certificate from two practising surgeons or physicians residing within the bounds of the regiment, under oath or affirmation, that, in their opinion he is unable and unfit to perform military duty by reason of infirmity or disability, or shall produce such a certificate from the surgeon of the regiment, who shall take one general oath or affirmation to perform his duty with fidelity; and unless the commanding officer of the said regiment is further satisfied that any such person is not an able bodied man within the spirit and meaning of this act.

IX. The captain or commanding officer of every company of militia, Captain to enrol.

1822.	shall between the first day of April and the first Monday of May, in the year eighteen hundred and twenty-two, and in every subsequent year enrol or cause to be enrolled every person subject to militia duty within the bounds of his company, by having entered the name, age, and place of residence of every such person in a book to be procured for that purpose, and if any doubt shall exist about his age or place of residence, the age shall be entered at twenty one years, and the place of residence shall be considered as being in the district, township or ward, and within the bounds of the company in which he is believed to reside, which shall be conclusive until he satisfies the captain or commanding officer of his proper age and place of residence; and if it is found that he ought to be enrolled in any other company, he shall only be released from performing duty in the company in which he is first enrolled, by producing a certificate that he is actually enrolled in such other company. And the captain or commanding officer shall enroi, or cause to be enrolled, from time to time, every person arriving within the bounds of his company, or arriving to the age of eighteen years, and liable to perform militia duty, and shall enter his name, age and place of residence in manner aforesaid: <i>Provided however</i> , That no actual member of a duly organized volunteer corps shall be enrolled in manner aforesaid, if at the time thereof he is uniformed and equipped as a volunteer, which fact he must show if required, by a certificate from the commanding officer of his troop or company.
How age and residence to be determined.	
Persons arriving within the bounds of any company to be enrolled.	
Penalty, a false representation, or concealment of names.	X. If any person liable to perform militia duty, shall make a false representation of his name, age, or place of residence to the person authorized to enrol him, or shall wilfully conceal or refuse to give the same, or if any head of a family shall conceal the name of any person subject to militia duty, residing, boarding or lodging in the family, or occupying any part of the dwelling house, or make a false representation thereof, every person so offending shall forfeit and pay the sum of ten dollars, to be recovered before any alderman or justice of the peace, as debts of equal amount are by law recoverable by any person who shall sue for the same.
Enrollment of companies to be delivered annually to the brigade inspector.	XI. The captain or commanding officer of every militia company, shall on or before the day of regimental or battalion training in each and every year, deliver, or cause to be delivered to the proper brigade inspector, a copy of the roll of the militia of his company under oath or affirmation; and the adjutant of the said regiment shall, on or before the said regimental or battalion training in every year, deliver or cause to be delivered to the proper brigade inspector, a roll of all the field, staff and company officers in his regiment; and each of the said officers failing to furnish the said rolls, and deliver the same as directed by this section, shall forfeit and pay the sum of thirty dollars.
Of the field, staff and company officers.	
Present adjutant general to continue in office for 3 years, &c.	XII. The adjutant general of the militia of this commonwealth now in commission, shall hold his office for the term of three years from the third day of August last, if he so long behaves himself well, and faithfully performs the duties of his office; but, whenever in the opinion of the governor the said adjutant general fails and neglects faithfully to perform the duties of his office, the governor shall remove him from office; and as often as a vacancy happens by such a removal, or by death, resignation, expiration of the term of office or otherwise, the governor shall appoint and commission another person in manner aforesaid; and the said adjutant general shall receive for his services the annual salary of three hundred dollars, to be paid out of the state treasury; and the said adjutant general shall receive and distribute all orders from the governor or commander-in-chief of the militia to the several officers of the said militia; whenever required, he shall furnish to the brigade inspectors one complete set of all forms and returns connected with a proper discharge of their duties, and of the duties of the several officers of the brigade to whom they shall be distributed by the said brigade inspector: for which forms and returns he shall be paid out of the state treasury upon the settlement of his accounts by the proper officers; and shall also be paid for all postage on letters or packages from or to him on
May be removed.	
Vacancy.	
Salary.	
Duties.	

1822.

subjects connected with military duty; he shall give explanations and information on all matters connected with military duty to the major generals, brigadier generals and brigade inspectors, whenever required by them; he shall receive and file all returns made to him of the militia agreeably to law, and shall annually make a detailed report thereof to the governor, to be submitted to the legislature; and shall also transmit a duplicate thereof to the president of the United States, and shall instruct the proper officers in the form in which these returns shall be made to him; and shall also in the report to the governor particularly designate the number of militia in each brigade and regiment, and the number and kind of volunteer corps attached to the same respectively; he shall also procure or cause to be procured, any arms, military stores, clothing, accoutrements and camp equipage, and shall distribute the same to the proper officers when legally required. The adjutant general shall, before he enters on his duties, give bond with one or more sufficient sureties to be approved of by the governor, which bond shall be taken in the name and for the use of the commonwealth of Pennsylvania, (and filed in the office of the secretary of state,) in the sum of one thousand dollars, conditioned for the true and faithful performance of his duties, and the safe delivery to his successor of all books and papers belonging to his office; and in case of the death of the adjutant general, his executors or administrators shall, under the penalty of one thousand dollars, safely deliver all books and papers belonging to the office of the said adjutant general, to any person appointed by the governor to receive the same; which penalty shall be recovered in the name and for the use of the commonwealth of Pennsylvania.

To give bond.

XIII. The divisions, brigades, regiments and companies of militia shall be officered as follows:

How the militia to be officered.

To each division one major general and two aids-de-camp, to be appointed by him with the rank of major; and one division inspector and one division quarter master, to be appointed by a majority of the general officers of the said division.

To each brigade, one brigadier general, one aid-de-camp, one brigade major, and one brigade quarter master, to be appointed by him with the rank of captains, and one brigade inspector.

To each regiment one colonel, one lieutenant colonel and two majors; one surgeon and two surgeon's mates; one adjutant and one quarter master, with the rank of first lieutenants; one sergeant major, one quarter master sergeant, one drum major, and one fife major. The said commissioned and non-commissioned staff officers to be appointed by the commanding officer of the regiment.

To each company one captain, one first lieutenant, one second lieutenant, five sergeants, six corporals, two musicians, and the number of privates directed by the fourth section of this act.

XIV. On the first Monday of June, one thousand eight hundred and twenty-eight, and on the first Monday of June in every seventh year thereafter, an election shall be held within the several battalion bounds of the militia of this commonwealth, in the manner and for the several officers hereinafter mentioned. The brigade inspector of each brigade then in commission, shall advertise and give notice in the most public manner, by printed or written advertisements, and by publication in two newspapers in the city or county, if such papers are published therein, to all persons subject to militia duty within the bounds of every such battalion of the brigade, that an election will be held on the said day, between the hours of ten in the forenoon and six in the afternoon, except within the city and liberties of Philadelphia, where the election shall be kept open until nine o'clock, at such place within the bounds of the said battalion as near the centre as may be, as shall be designated in such notice, for the election of one brigadier general for the brigade, of one colonel and lieutenant colonel for each regiment of said brigade, and one major for each battalion of said regiments. And the said brigade inspectors shall order and direct the major of every

Brigadier general and field officers to be elected.

Elections.

1822.

Who to  
vote.

Returns.

Penalty  
false re-  
turns.

How and  
by whom  
the returns  
to be re-  
ceived, &c.

Persons  
elected to  
be notified.

Penalty  
false re-  
turns.

battalion, or if he neglects or refuses, or in case there is no such officer, he shall appoint one respectable citizen residing within the limits of the said battalion to superintend and conduct the said election; and the said major or citizen appointed as aforesaid, shall attend at the time and place fixed on for the election, and shall prior to the opening thereof select another respectable citizen, who with himself shall act as judges of said election; and they shall take to their assistance two clerks; and the persons so appointed to act as judges and clerks shall be sworn or affirmed by any alderman or justice of the peace, or if there is no alderman or justice of the peace present, then by any commissioned officer, to conduct the said election fairly and impartially, and make a correct and true return thereof. And every militia man belonging to the said battalion, or any member of a volunteer corps residing within the bounds of the same, may vote by ballot at such election in the manner now practised at the general elections: *Provided however*, That no volunteer of any troop or company which actually belongs to a battalion or regiment of volunteers, shall vote for field or company officers of a militia regiment, but may vote for brigade inspector or brigadier general of the brigade. And if the said judges shall deem it necessary, they may administer oaths or affirmations to voters and others, and examine them about their right to vote, and shall decide thereon; and when the said election shall have been closed and the votes counted, the said judges shall make out duplicate returns of the same, to be signed by them as well as the clerks, particularly stating in the said returns the number of votes in words at length given for each person for the office before mentioned, of brigadier general, brigade inspector, colonel, lieutenant colonel and major separately and distinctly; and the superintendent of such election, after sealing up the said returns in the presence of the other judge, shall take charge of the same, and shall within ten days after the said election, deliver, or cause to be delivered, the said returns to the proper brigade inspector then in commission. And the said superintendent shall receive two dollars, and the said judge and clerks one dollar each for their services for performing the duties required of them. And if any such superintendent, judge or clerk shall act fraudulently in conducting said election, or shall wilfully make a false return thereof, he shall, on conviction thereof before the court of quarter sessions of the county in which he resides, forfeit and pay any sum not less than fifty nor more than one hundred dollars, to be paid to the proper brigade inspector.

XV. The brigade inspector after having received the returns of the elections held in manner aforesaid, and before he opens the same, shall call to his assistance two respectable citizens residing within the bounds of the brigade, one of whom shall be an alderman or justice of the peace, and after swearing or affirming the said citizens truly to examine and cast up said returns, and make a fair and correct report thereof, the same oath or affirmation shall be administered by the said alderman or justice of the peace to the brigade inspector, and they shall then open the returns of the said elections and cast up the same, and shall make out one general return of the election of brigadier general, one other return of the election of brigade inspector, one other return of the election of each colonel and lieutenant colonel, and one other return of the election of each major; and having certified and signed the same, the said brigade inspector shall forthwith transmit the same to the secretary of the commonwealth. And the said brigade inspector shall immediately cause a written certificate and notice to be given to each of the said persons of his election. And the returns of the battalion elections received by the brigade inspector shall be filed and preserved in his office, and shall be subject to the inspection of any person interested who may wish to examine the same; and if the said brigade inspector, and either of the citizens aforesaid called by him to his assistance, shall be guilty of fraud in casting up the returns of the battalion elections aforesaid, or shall wilfully sign a false return thereof, or if the said brigade inspector shall wilfully suppress any of the said returns, upon con-

viction thereof before the court of quarter sessions of the county in which they severally reside, they shall forfeit and pay any sum not less than one hundred nor more than five hundred dollars for the use of the brigade; and the said brigade inspector shall further be deprived of his office: *Provided*, That each of the persons called to the assistance of the brigade inspector shall receive one dollar for his services, to be paid by the said brigade inspector. 1822.

XVI. The proper brigade inspector shall notify the brigadier general, and the field officers of the several regiments and battalions of militia and volunteers of the brigade, elected according to this act, to meet on the first Monday of July then next ensuing, and on the first Monday in July in every seventh year thereafter, at a place as near the centre of the brigade as possible to be fixed by him, to elect a major general for the division. And the said brigade inspector shall attend at the time and place so fixed on, and together with the brigadier general or other senior officer present, shall superintend and conduct the said election. And the said officers of the brigade being assembled, shall ballot for a major general, and after counting the votes, duplicate returns of the said election shall be made out and signed by the said brigade inspector and brigadier general or other senior officer, stating particularly the number of votes given for each person for major general in words at length. And the said brigade inspector shall file one of the said returns in his office, and the brigade inspectors of the other brigade or brigades of the division shall, within ten days after the election, call upon the brigade inspector of the first brigade of the said division, and they shall examine and cast up their respective returns, and make out a division return, stating the election of the person having the highest number of votes for the office of major general, which being certified and signed by the said brigade inspectors, shall immediately be transmitted to the secretary of the commonwealth; and one of the said brigade inspectors shall also notify in writing the person so elected; but if no one should have a majority of the votes given, or if any person elected a major general as aforesaid shall refuse to accept, or whenever a vacancy shall happen by death, resignation or otherwise, of which immediate notice shall be given to the adjutant general of the commonwealth, by the proper brigade inspectors, the said adjutant general shall direct the brigade inspectors of the division to hold a new election on a day to be named by him, which election shall be held and conducted, and returns thereof made in all respects as is directed by the preceding part of this section. And when, in consequence of no one having a majority of votes, a second election shall have been held for major general in manner aforesaid, and it should again happen that no one has a majority of the votes given, then the governor shall appoint and commission one of those highest in vote. Returns. Vacancies.

XVII. Before any commission shall issue to a brigade inspector, he shall give bond with sufficient sureties, to be approved of by two of the judges of the court of common pleas of the county in which he resides, in the sum of five thousand dollars, taken in the name of the commonwealth of Pennsylvania, conditioned for the faithful performance of his duties as brigade inspector, which bond shall be filed in the office for recording of deeds of the county, and a copy thereof sent to the secretary of the commonwealth. And whenever a vacancy shall happen, by death, resignation or removal of any brigade inspector, the brigadier general or senior officer of the brigade, shall cause an election to be held to supply such vacancy, on a convenient day to be named by him, which election shall be held and conducted in all respects similar to the mode prescribed by the fourteenth and fifteenth sections of this act, the said brigadier general or senior officer acting in lieu of the brigade inspector, and who shall be paid the necessary expenses for advertising said election, and two dollars for attending the same. Brigade inspectors to give bond, &c. Vacancies.

XVIII. If any brigadier general, colonel, lieutenant colonel, or major, elected, shall refuse to accept; or whenever, and as often as a vacancy shall occur by the resignation, removal, death or otherwise, of any such officer, a new election shall be immediately ordered by the proper brigade inspector, in the offices of brigadiers general and

**1822.** at a time to be fixed on by him, which shall be held, conducted, and returns thereof made in all respects, and under the like penalties as is provided and directed by the fourteenth and fifteenth sections of this act, except that in the elections of majors, it shall not be necessary to advertise in two city or county newspapers: nor shall it be necessary for the brigade inspector to call to his aid two citizens to examine the returns of the elections of majors, nor to be sworn or affirmed; but he shall transmit a copy of the return of any election of major, received by him, to the secretary of the commonwealth.

**When and where company officers to be elected.** XIX. On the third Monday of August, on thousand eight hundred and twenty-eight, and on the same day in every seventh year thereafter, an election shall be held within the bounds of every company of militia in this commonwealth, for company officers for the same; and the major of every battalion, or in case there is no major, the lieutenant colonel of the regiment shall give at least ten days' public notice, by written or printed advertisements, and by publication in one or more newspapers, if he thinks it necessary, to the persons subject to militia duty within the bounds of every company of the battalion, that an election will be held on said day between the hours of ten o'clock in the forenoon and six in the afternoon, at such place within the bounds of every said company, as near the centre as may be, as shall be designated in such notice, for the election of one captain, one first lieutenant, and one second lieutenant. And the said major, or lieutenant colonel, shall appoint one respectable citizen to superintend and conduct each of said elections, who shall attend at the time and place fixed on for the same; and shall prior to the opening thereof, select one other person, who, with himself, shall act as judges; and they shall appoint one other person to act as clerk thereof; but if any person appointed by the major, or lieutenant colonel as aforesaid, shall fail to attend, then, and in that case, the enrolled militia present at such election, may and shall appoint two citizens as judges, and one citizen as clerk, and the said judges and clerk shall be sworn or affirmed by any alderman or justice of the peace, or by any commissioned officer, to conduct the said election fairly and impartially, and to make correct and true returns thereof; and

**How elections to be conducted.** the captain or commanding officer of every company of militia within the bounds of which any such election is held, is hereby required, under the penalty of fifty dollars, to furnish the said judges on or before the opening of the election, a correct list of the militia belonging to his company. And every militia man (volunteers excepted), within the bounds of every said company, shall and may vote at such elections in the manner practised at the general elections. And the said judges may, if necessary, examine persons offering to vote upon their right to do so, under oath or affirmation, and shall decide thereon. And when the said elections shall have closed, duplicate returns thereof shall be made out, and signed by the said judges and clerks respectively, stating the number of votes given for each person for the offices aforesaid, separately and distinctly; and also stating in the said returns the number of militia within the bounds of the company; and one of the said judges shall take charge of the said returns, and within five days thereafter deliver, or cause the same to be delivered to the aforesaid major or lieutenant colonel, who shall immediately transmit one of each of said returns to the brigade inspector, who shall file the same in his office; and the said brigade inspector shall make out one general return for each regiment, of the officers elected in the several companies thereof, in every case where it appears at least one third of the militia of the company voted for officers; which returns he shall certify and sign, and send immediately to the secretary of the commonwealth. But when, by any

**Captain to furnish a list of the enrolled militia.** such returns, it appears that one third of the militia of any company did not vote for company officers, the brigade inspector shall notify the colonel or commanding officer of the regiment thereof, who shall appoint the proper officers for every said company; but he may if he thinks proper, appoint all or any of the persons voted for. And he shall also appoint the proper

**Returns.** If one third of the enrolled militia do not vote, the commanding officer

officers for every company where no election shall be held; and in case 1822.  
 any person shall be elected who shall refuse or decline to accept, or shall  
 fail to perform the duties of his office, the commanding officer of the regi- may ap-  
 ment is hereby authorized and directed to appoint proper officers in the point.  
 place of every such person thus declining to accept, or failing to perform Where no  
 his duty. But the said commanding officer may, if he thinks proper, in election to  
 any of the cases above mentioned, order new elections to be held; and he be held.  
 shall make out duplicate returns of all appointments made by him, and And may  
 shall deliver or cause the same to be delivered to the brigade inspector order new  
 without delay; one of which returns he shall file in his office, and the elections  
 other transmit to the secretary of the commonwealth. And as often as held.  
 a vacancy occurs of a commissioned officer in any company, such vacancy Vacancies.  
 shall be filled by a new election or appointment in manner aforesaid, only  
 that the superintendent appointed for each election, shall hold and conduct  
 the same himself, without selecting another person to act with him as a  
 judge thereof; and shall have the like powers, and do and perform every  
 act and thing required to be done by the two judges in the preceding part  
 of this section. *Provided however,* That the company officers shall reside Proviso as  
 within the bounds of their company, unless proper persons cannot, in the to the resi-  
 opinion of the commander of the regiment, be found therein, to accept of dence of  
 such appointments, in which case they may be taken from the bounds of the officers.  
 other companies. And the judges and clerks of the aforesaid elections Compensation to  
 shall be entitled to one dollar each for their services, and be subject to judges and  
 the like penalties as are directed and prescribed by the fourteenth section clerks.  
 of this act. And the said brigade inspector shall also be subject to the  
 same penalties for misconduct, as are prescribed by the fifteenth section of  
 this act.

The field officers or a majority of them, the commandant being one, How com-  
 shall and may number the companies, and arrange them to the battalions panies are  
 of the regiment, giving notice thereof to the proper brigade inspector. to be num-  
 And all field and company officers of militia shall take rank according to bered, &c.  
 the number of their respective regiments, battalions, or companies, reck-  
 oning the lowest in number to be highest in rank, when their commissions  
 are of the same date. And the commanding officer of every company, How to  
 is authorized to appoint the proper non-commissioned officers for the same. rank.

XX. When elections, held under this act, are contested, the following Contested  
 proceedings shall be had: when at least four of the officers, who voted at elections.  
 any election for major general, shall complain to the adjutant general of Major  
 the commonwealth, that illegal votes were taken, or that the same was general.  
 otherwise unlawfully held and conducted, it shall be the duty of the said  
 adjutant general, to select at least three officers, who do not belong to the  
 division in which the election was held, one of whom shall not be under  
 the rank of a general officer, and the others not under the rank of colonel.  
 If the election of a brigadier general, or brigade inspector shall be con- Brigadier  
 tested, by at least one hundred of the volunteers or militia who voted at general or  
 any such election, application may be made by them, to the major general, brigade  
 or the next senior officer in rank in the division, if there is no major inspector.  
 general, who shall direct and notify two other officers of said division, not  
 belonging to the brigade in which the election was held, who shall not be  
 under the rank of lieutenant colonel. If the election of any field officer Field offi-  
 shall be contested, by at least fifty of those who voted at such election, cers.  
 application may be made by them to the brigadier general, or if there  
 should be no brigadier general, then the next senior officer in rank, in the  
 brigade, not belonging to the regiment in which the election was held, who  
 shall direct and notify two other officers not under rank of the field officers,  
 and not belonging to the said regiment, which officers shall compose  
 boards for the trial of the contested elections in the cases before mentioned,  
 for which they were selected and appointed; and may belong to the volun-  
 teers or militia, or either thereof, at the discretion of the authority making

1822. Company officers.	<p>the selection. And if the election of an officer of any company of militia, or of independent volunteers, shall be contested by at least twenty of those who voted at any such election, application may be made by them, to the colonel or commanding officer of the regiment to which said militia company belongs, or said volunteer company is attached, who, with two other field officers of said regiment to be notified by him, shall compose a board for the trial of said election. And if the election of an officer of any company of volunteers belonging to a battalion or regiment, shall be contested by at least twenty of the volunteers who voted at any such election, application may be made by them to the commanding officer of their proper battalion, or regiment, who, with the other field officers of the battalion or regiment, if any there are, not, however, exceeding two besides himself, to be notified by him, shall be a board for the trial of such election. And the senior officer of any such board, shall fix on a convenient time and place for determining the said contested election, with power to adjourn if necessary; and shall direct not less than ten days notice to be given to at least one of the complainants, and to the other parties concerned, and may issue process, to compel the attendance of necessary witnesses, who shall be paid by the party who requires them to be summoned. And the said board shall proceed to hear the allegations and proofs offered; and they, or a majority of them, shall either confirm or set aside any such election, as the justice of the case may require, and shall immediately make report thereof to the proper authority. But the said board, in deciding upon any contested election, shall reject and deduct all illegal votes given to any candidate, and if there is not other sufficient cause of complaint, shall confirm the election in favor of the person having the highest number of lawful votes given. But if the election shall be set aside, then any commission which may have issued in consequence of the same, shall be void, and the office declared vacant, and a new election shall be held in the manner prescribed in other cases by this act.</p>
Time and place for determin- ing, &c.	
Duties of the board.	
Term of commis- sions to be until the 3d of Au- gust, 1828.	<p>XXI. All officers of volunteers or militia, elected or appointed in pursuance of the act for the regulation of the militia, passed the second day of April, one thousand eight hundred and twenty-one, or that may hereafter be elected or appointed, prior to the next septennial elections, shall hold their commissions until the third day of August, one thousand eight hundred and twenty-eight; and all officers elected or appointed at the next, and all subsequent septennial elections and appointments, shall hold their commissions until the third of August, in every seventh year thereafter, if they so long behave themselves well, and perform the duties required by law; except, however, the staff officers appointed by the major generals and brigadier generals, and of the regiments and battalions of volunteers and militia, who shall hold their commissions for the periods before mentioned, unless sooner removed by the general officers, or by the commanding officers of the said regiments or battalions respectively. But the appointment and commission of every staff officer, of a major or brigadier general, shall become void, whenever the person making such appointment shall cease to be an officer himself, from any cause whatever. And whenever the secretary of the commonwealth shall have received the returns of any elections or appointments, made in pursuance of this act, commissions shall immediately be issued to the said officers respectively, to be sent to the proper brigade inspector, unless he shall have received notice that the election of any such officer is contested, in which case the commission shall be withheld until the contest is decided, and then shall only issue to the officer lawfully elected. And all commissions for officers elected or appointed at the next, and all subsequent septennial elections or appointments, shall bear date and take effect from the third of August. And all commissions for officers elected or appointed at any other time, shall bear date and take effect from the day of election or appointment of every such officer. But every officer elected or appointed in pursuance of this act,</p>
Except for staff offi- cers.	
When com- missions to issue.	
When to take effect.	

shall have all the rights and authorities of an officer, from the time of receiving notice of his election or appointment, (when his election is not contested) although not commissioned, except the brigade inspector, who shall have no authority until regularly commissioned. No officer shall be permitted to resign, until he shall have accounted and settled for all money, arms and property of the commonwealth, which may have come into his hands. Nor shall any person be a commissioned officer who is not a citizen of the United States. And the commission of every such officer shall be null and void, unless he is actually resident within the bounds of his proper command. And whenever it happens, from any cause whatever, that he is not so resident, his office is hereby declared vacant: excepting, however, the case of company officers, who may reside without the bounds of their company, agreeably to the nineteenth section of this act: *And provided*, That within the first division of militia, the officers may reside in any part of their respective brigades.

1822.

At what time officers to exercise their duties.

No person to be commissioned not a citizen.

Officers to reside within the bounds of their commands.

**XXII.** The militia of this commonwealth shall be paraded and trained in companies and battalions, as follows, viz: In companies on the first Monday of May in every year: and the battalion parades and trainings, shall commence on the second Monday in May, in every year; and shall continue in such order as the brigade inspector shall direct, on every day of the week, except Sunday, until all the battalions of the brigade shall have paraded: of which trainings one month's notice shall be given by the brigade inspector, in as public a manner as possible, by printed advertisements or otherwise, as he may deem best. The place for the company trainings shall be fixed by the commanding officer thereof, and of which he shall give at least ten days public notice, by printed advertisements or otherwise. And the place for battalion trainings, shall be fixed by the commanding officer of the regiment, with the approbation of the major of the battalion. And the commanding officer of the regiment shall give at least fifteen days public notice of the place of said battalion trainings, by printed advertisements or otherwise. And the colonel of the regiment shall attend, and command the training of one battalion of the regiment; and the lieutenant colonel shall attend and command the training of the other battalion of the said regiment, to be determined by said colonel: but in case of the absence of those officers, the command shall devolve upon the next senior officer. And at every regimental and battalion training, the commanding officer shall cause the roll of the field and staff officers to be called, and the absentees noted, and a return thereof made to the proper court of appeal for the first battalion: *Provided however*, That the militia shall parade and train in regiment instead of battalion, when the commanding officer may require it, of which he shall give notice to the brigade inspector, before he is directed to advertise in manner aforesaid. And the said commanding officer shall give the same notice of the place of regimental training, that is required in the case of battalion training: *And provided*, That each of the brigade inspectors within the bounds of the first division, shall publish the said notice required of him by this section, three times in two of the daily newspapers printed in the city of Philadelphia, and shall describe therein the bounds of his brigade, and of each regiment therein, together with the names of their respective commanding officers: *And provided also*, That no enrolled militia man, under the age of twenty-one years, shall be required to parade or train, or shall be fined for not having so paraded or trained.

When and where company and battalion trainings.

Public notice to be given.

Who to command the trainings of the battalions. Roll of field and staff officers to be called, &c.

**XXIII.** Every commissioned and staff officer, and every non-commissioned officer and private, enrolled in the militia, and between the ages of twenty-one and forty-five years, who, without a lawful excuse, shall neglect or refuse to attend, on any day of parade and training, herein before appointed, (without good and sufficient arms) shall be fined as follows, to wit: Every field officer, five dollars; every staff officer, and captain of a company, three dollars; every subaltern officer, two dollars; and every

Penalty for not attending training.

**1822.** non-commissioned officer and private, one dollar; and every such officer, non-commissioned officer and private, shall pay the same fine if he leaves the ranks and parade on any day of training, without the leave of his commanding officer, before the regiment, battalion, or company is dismissed: *Provided however,* That if the officers of the company shall be of opinion that any militia man could not procure arms, he shall not be fined for appearing without them; and all officers, who shall appear on parade, without being in uniform, shall be subject to the same fines, as if they had not attended, and they shall be returned as absentees, in the cases before mentioned.

**Leaving the ranks and parade.** **XXIV.** It shall be the duty of every captain, or commanding officer, on the days of training aforesaid, to call the roll of his company, or cause the same to be called, and note down those who are absent at any time during the hours of parade, as often as he shall think most proper, to ascertain the absentees. And the said captain or commanding officer, shall make out a return of all such absentees, who are required to parade, under oath or affirmation, with the amount of fine incurred, set opposite each name; and shall deliver the said return to the proper court of appeal, on the day of their meeting, under the penalty of fifty dollars.

**Roll to be called.**

**Absentees.**

**3 officers to be a court of appeal.** **XXV.** The colonel or commanding officer of each regiment, shall, on or before the day of regimental or battalion training, in every year, appoint three commissioned officers for each battalion of his regiment, to compose a court of appeal for the said battalion for the current year, and shall fix on the place where the said officers shall assemble; and shall give public notice of such appointment, and of the time and place of meeting, fifteen days at least before each meeting, by printed advertisements or otherwise. And the said officers, so appointed as a court of appeal for the battalion, shall meet on the second Monday of June, in said year, and shall, before they enter on their duties, be sworn or affirmed, justly and impartially to decide on all cases that may come before them, and shall continue to sit as long as business absolutely requires it. The senior officer shall be president of the said court, and if a vacancy should happen, the colonel or commanding officer shall immediately appoint another officer to fill such vacancy, and give him notice thereof. And all officers and enrolled militia men of the proper battalion, who shall have neglected to attend on any day of training, may appear in person or by agent before the said court, to assign their excuse for such non-attendance, and the said court shall and may examine all persons under oath or affirmation; and if it shall be satisfactorily proved or shown, that any officer or militia man was prevented from attending, by reason of being a juror, arbitrator or witness, before any court or other legal tribunal, or of illness, or unavoidable cause which rendered his attendance impracticable on any day for which he is fined for non-attendance, the said court or a majority thereof, shall remit the fine or fines incurred. But no remission shall be made, or redress given at any other time or by any other authority, or in any other manner, than is before mentioned. And as soon as the said court of appeals shall have decided upon all cases before them, they shall make out two lists of the officers and enrolled militia of each company, returned by the captain or commanding officer thereof, as are fined for non-attendance on any day of training, and whose fines were not remitted by the said court of appeal; which lists shall be signed by the president of the said court, with a certificate attached thereto, that the officers of the said court of appeal had been sworn or affirmed according to law. They shall also mark on the return of each captain, furnished to the said court, opposite to the name of each individual, the remission of any fine; which return, so marked, shall also be signed by the president of the said court. And the said court of appeal shall also make out two lists of all field and staff officers returned to them,

**When to meet.**

**To be on oath.**

**Vacancies.**

**Persons fined may appeal.**

**When fines may be remitted.**

**Two lists to be made.**

(1) This is not to affect the right of exoneration by the field officers under the 26 §. See 30 March, 1824, § 4.

as fined for non-attendance, and whose fines are not remitted by the said court, signed and certified as aforesaid. And the president of the said court of appeal, within ten days after the sitting of the said court, shall, under the penalty of fifty dollars, deliver or cause to be delivered to the proper brigade inspector, one of each of the lists aforesaid, of the fines not remitted, and also the company returns, marked as before directed, and shall transmit the other lists of the said delinquents, to the auditor-general of the commonwealth, who shall charge the amount of the fines not remitted by the said court, to the proper brigade inspector, and file the said lists in his office.

1822.

To be delivered to brigade inspector.

XXVI. The brigade inspector shall, as soon as conveniently may be after receiving from the presidents of the several courts of appeal in his brigade, the returns of fines not remitted by the said courts, issue warrants under his hand and seal, for all the fines not remitted, to wit: One warrant for all fines not remitted of field and staff officers; and one other warrant for all fines not remitted in each and every company, and which shall be in the following form:

His duties after receiving the same.

"The commonwealth of Pennsylvania to A. B. greeting:

"Whereas the persons named in the schedule or list hitherto annexed, have incurred the fine or fines set opposite to their respective names, for non-attendance and neglect of duty on the day or days of training appointed by law, for the militia of this commonwealth, and which have not been remitted by the court of appeal of the proper battalion. This warrant therefore authorizes and requires you to demand and collect of each and every person named in the said list or schedule the sum set opposite to his name. And in case of neglect or refusal to pay the same, you are to levy and collect the same, with costs, of the goods and chattels of each and every such person by distress and sale thereof, returning the overplus, if any, to the owner. Witness my hand and seal this                      day of                      eighteen hundred and

Brigade Inspector.

{ L. S. }

Brigade,                      Division of Pennsylvania Militia."

And the said brigade inspector shall deliver, or cause to be delivered, each of the said warrants to a constable, who is hereby required to execute the same, or to some other fit person, at his discretion, from whom he shall require security, if he thinks it necessary. And any person to whom any such warrant is delivered, shall, under the penalty of twenty dollars, call on each and every person named in the list or schedule to the said warrant, if within the bounds of the brigade, within twenty days after he has received the same, and demand payment of the fine or fines due. And in case any such fine or fines is not paid within ten days after demand, he shall proceed to levy and collect the same according to the command of the warrant, with costs; and in the levy and sale of the delinquent's property, he shall proceed in the same manner that constables are, or shall be, by law required to proceed under executions; and the said collector shall have the same fees as are allowed to constables for similar services; and for want of sufficient goods and chattels to pay the fine or fines against him, every such delinquent shall be committed by the proper collector to the custody of the sheriff or jailer of the proper county, to be held and detained until he pays the said fine or fines, or is discharged agreeably to the insolvent laws of the commonwealth, and a copy of the warrant certified by the said collector, shall be sufficient authority to the sheriff or jailer, to receive and hold such delinquent in custody, and which he is hereby required to do until legally discharged. And the constable, or other person to whom any warrant shall be delivered, shall, within forty days after he has received the same, pay to the brigade inspector the amount of fines contained in the schedule to said warrant, unless the said brigade inspector shall allow him further time to

Payment to be demanded.

Proceedings to compel payment.

Constables, &amp;c. to pay over fines.

1822.

Proceed-  
ings if fines  
cannot be  
collected.

Field offi-  
cers may  
exonerate  
persons  
from the  
payment of  
fines in cer-  
tain cases.

Bail of con-  
stables  
liable for  
fines col-  
lected.

Compensa-  
tion to con-  
stables and  
field offi-  
cers.

Proceed-  
ings on ne-  
glecting to  
elect, or  
failure to  
perform  
duties re-  
quired.  
Duty of  
brigade in-  
spectors.

Of the per-  
son em-  
ployed to  
enrol, &c.

collect the same; but if the said person after the expiration of the forty days, shall fail, on the demand of the said brigade inspector, to pay the amount of the said fines to him, he shall forfeit and pay double the amount thereof, to be recovered by the said brigade inspector in the name of the commonwealth of Pennsylvania, as debts of equal amount are by law recoverable. And if the said constable or other person, shall report to the brigade inspector, which he is hereby required to do within the said forty days, that it is impracticable to collect some of the fines contained in the said schedule, each of the persons to whom any warrant is delivered, shall make such report. The brigade inspector shall order the field officers of the regiment to be assembled, and persons having warrants shall appear before the said field officers, or a majority of them, who are authorized to act at the time and place to be fixed on by the brigade inspector, of which they shall have notice. And the said field officers having been first sworn or affirmed, they, or a majority of them, shall determine whether it was and is impracticable to collect any such fines or not. And if they find any of the fines contained in the warrants could not have been, nor cannot be collected, they shall make out two lists thereof and deliver the same to the brigade inspector, signed by the senior officer present; and the said field officers, when so assembled, or a majority of them, are hereby further authorized to exonerate any person or persons against whom warrants have issued, from any fine or fines against them which ought not to be levied and collected agreeably to this act, and lists thereof shall be made out and delivered to the brigade inspector in manner aforesaid; and the brigade inspector shall, after having received said lists, exonerate any person having a warrant or warrants from the amount of any fine or fines contained in the schedule to the same, which by the lists aforesaid, it appears cannot be collected. And the bail required by law to be given by constables, shall be answerable for the amount of any military fines and forfeitures which may come into the hands of said constable, in the same manner as they are liable in all other cases, on the default of the constable. And the persons appointed to collect the fines as aforesaid, shall receive for their services, any sum not exceeding ten per cent. on the amount collected by them. And each field officer shall receive one dollar per day while employed in the performance of the duties required by this section.

XXVII. [Repealed by 30 March, 1824, § 9.]

XXVIII.<sup>1</sup> If it shall happen that the proper officers shall not be elected in any regiment or battalion of militia, or in any company or companies thereof, or who being elected shall fail to perform the duties required, in causing the militia to be enrolled and trained, and returns made according to law, it shall be the duty of the brigade inspector of the proper brigade, as soon after the first Monday in June in every year, as conveniently may be, to employ one or more proper persons to enrol all and every person residing within the bounds of every such regiment or battalion, or of any such company or companies thereof, and liable to perform duty in the militia, who shall proceed in the same manner, and have the like authorities as are given to captains or commanding officers of militia companies by the ninth section of this act; and every person so employed to enrol as aforesaid, shall make a return of the persons enrolled within the bounds assigned to him by the brigade inspector; and he shall be sworn or affirmed that the enrollment so made, contains a correct list of all persons liable to perform duty in the militia within the bounds so assigned to him, as far as he could ascertain the same; which oath or affirmation may be administered by any alderman or justice of the peace, or the said brigade inspector: and which return of enrollment shall be conclusive evidence that the persons therein named are liable to perform militia duty; and each and every person so enrolled between the ages of twenty-one and forty-five, shall pay the sum

(1) If the officers are not elected, or fail to perform the duty, the brigade inspector appoints some one. 17 S. & R. 148.

of two dollars; and it shall be the duty of the proper brigade inspector as soon as he has received any of, or all of the enrolments aforesaid, to transmit copies thereof to the auditor-general, and to issue one or more warrants, as he may think necessary for the collection of the said sum of two dollars from each of said persons; which warrants shall be in the form following, to wit.

"The Commonwealth of Pennsylvania to A. B. greeting:

"Whereas the persons named in the schedule or list hereto annexed, Warrant.  
have each become liable to pay the sum of two dollars, according to the militia law of this commonwealth, this warrant, therefore, authorizes and requires you to demand and collect of each and every such person the sum of two dollars. And in case of neglect or refusal to pay the same, you are to levy and collect the same with costs, of the goods and chattels of each and every such person by distress and sale thereof, returning the overplus if any, to the owner. Witness my hand and seal this day of  
eighteen hundred and

Brigade Inspector, { L. S. }

Brigade Division of  
Pennsylvania Militia."

And the brigade inspector shall deliver the said warrant or warrants to a constable or other fit person, who shall execute the same, and from whom he shall require security, if he thinks it necessary; and the said constable or other person, as well as the field officers of the regiment, shall perform the same duties, have the same authority, be subject to the like penalties, and proceed in all respects, as is directed and provided by the twenty-sixth section of this act, for the collection of fines for non-attendance on days of training. But in case there should not be at least three field officers of the regiment, then the brigade inspector is hereby required to order the proper number of field officers from any other regiment, who shall perform all the duties required by the said twenty-sixth section. And the said brigade inspectors shall have the same powers and authority, and perform the same duties as are required by said section, and shall account for any money received by virtue of this section, in the same manner as is provided for in other cases. And the said brigade inspectors shall pay to the persons employed by them to enrol as aforesaid, as well as to the constables or other persons authorized to collect as aforesaid, such compensation as shall be reasonable and just.

XXIX. The compensation for services performed by direction of this act, except for serving as members of courts martial, and which is not herein otherwise provided for, shall be as follows:

To each commanding officer of a militia company.

Taking the annual enrolment, each person lawfully enrolled, three cents.

Furnishing copy of roll to brigade inspector, one dollar.

Giving notice of annual training, fifty cents.

Making return of absentees, one dollar.

Furnishing copy of company roll to judges of election, fifty cents.

To each major or lieutenant colonel of militia.

Advertising company elections, and appointing superintendants therefor, each company, fifty cents.

To each commanding officer of a regiment of militia.

Advertising the regimental or battalion trainings, one dollar.

To each officer sitting to try contested elections per day, one dollar.

To each member of a court of appeal for the militia, every day necessarily and actually employed, one dollar.

To each president of a court of appeal, making return to brigade inspector, fifty cents.

To each field officer assembled to exonerate fines per day, one dollar.

{ L. S. }

Duties of  
constable.  
Of field  
officers.

Powers of  
the brigade  
inspector.

Compensa-  
tion to offi-  
cers, to  
wit.

Command-  
ing officer  
of a com-  
pany.

Major or  
lieutenant  
colonel.

Command-  
ing officer  
of a regi-  
ment.

Member of  
court of  
appeal.

1822.

Oath, &c.  
to be ad-  
ministered  
without  
fee.

Volunteers  
organized.  
Number of  
officers and  
men in  
each troop  
of cavalry.  
Company  
of artillery.

Infantry.

Riflemen.

When  
troop or  
company is  
within the  
bounds of  
different  
brigades,  
how at-  
tached.

Electors of  
officers of  
volunteers.

Vacancies.

Brigade in-  
spectors to  
inspect vo-  
lunteer  
companies.

To hold  
elections.

How con-  
ducted, re-  
turned, and  
certified.

Non-com-  
missioned  
officers.

Members  
of volun-  
teer corps  
not to with-  
draw with-  
out consent  
of officers.

XXX. All oaths or affirmations required to be taken by this act, and not otherwise provided for, may be administered by any judge, alderman or justice of the peace, or any commissioned officer, who shall perform such service without any fee therefor.

XXXI. Troops and companies of volunteers, except within the bounds of the first brigade, first division, shall be organized as follows: There shall be in each troop of cavalry one captain, one first lieutenant, one second lieutenant, one coronet, one quarter master sergeant, four sergeants, four corporals, one trumpeter, one saddler, one farrier, one blacksmith, and not less than thirty privates.

There shall be in each company of artillery one captain, one first lieutenant, one second lieutenant, one quarter master sergeant, four sergeants, four corporals, two musicians, and not less than thirty-five artificers and privates.

There shall be in each company of infantry one captain, one first lieutenant, one second lieutenant, four sergeants, four corporals, two musicians, and not less than forty-five privates.

There shall be in each company of riflemen, one captain, one first lieutenant, one second lieutenant, four sergeants, four corporals, one bugler, and not less than forty privates.

*Provided however,* That volunteer troops and companies now organized may have the number of officers at present authorized: but whenever a vacancy shall occur, said troops and companies shall only have the number of officers above authorized: *And provided further,* That there shall not be more than four companies of artillery in any division of militia, except in the first division.

And when the members of any such troop or company, are within the bounds of different brigades, such troop or company shall be attached to, and belong to the brigade in which a majority of the members reside; and the said troop or company shall be inspected, and under the order of the proper officers of the said brigade, in the same manner as if all the members had resided therein.

XXXII. The officers of volunteer corps, shall be elected by the members thereof; and whenever a vacancy happens by the death, resignation or removal of any officer of a volunteer corps, his place shall be supplied by a new election, to be ordered by the brigade inspector, to be held and conducted in the same manner as elections to supply vacancies of captains in the militia. And whenever the number of volunteers required by this act for any troop or company, shall have uniformed and equipped themselves according to law, upon notice thereof, given to the brigade inspector, he shall, on a day and at a place to be fixed on by him, of which the members of the said troop or company shall be notified, proceed to inspect the said troop or company, and if he finds the same to contain the number of men required, who are properly uniformed and equipped, he shall on the said day of inspection, direct an election to be held for the officers thereof; which election he shall superintend and conduct in person, and shall make out and sign duplicate returns of the same, one of which said returns he shall file in his office, and the other transmit to the secretary of the commonwealth, together with a certificate of the fact, that the said troop or company has the number of men required, properly uniformed, and equipped; and the non-commissioned officers of every troop and company of volunteers, shall be appointed according to the by-laws of the same; and it shall not be lawful for any member of any troop or company of volunteers, to withdraw from, or leave the same, without the consent of a majority of the commissioned officers thereof first obtained, nor without first delivering up in good order any arms or accoutrements which he may have received; and whenever a volunteer shall have leave to withdraw from his troop or company, the captain or commanding officer shall furnish him with a certificate or discharge if required, and shall also give notice thereof

to the commanding officer of the militia company, in which the said volunteer may reside, or if there is no such company officer, then to the commanding officer of the proper battalion or regiment. 1822.

XXXIII. Any volunteer troops or companies, except within the bounds of the first brigade of the first division, may be formed into battalions or regiments, in the following manner although not of the same descriptions of troops or force. Formation of battalions or regiments of volunteers.

Any number of troops or companies not less than three, to compose a battalion, and have one major, one adjutant, one quarter master, and one assistant surgeon. Number of companies to form a battalion, and officers to be elected.

Any number not less than five to compose a battalion, and have one lieutenant colonel, one major, one adjutant, one quarter master and one surgeon.

Any number not less than six to compose a battalion, and have one lieutenant colonel, two majors, one adjutant, one quarter master, one surgeon and one assistant surgeon.

And any number not less than eight, to compose a regiment, and have one colonel, one lieutenant colonel, two majors, one adjutant, one quarter master, one surgeon and two assisting surgeons. What number to compose a regiment.

And troops of cavalry may be organized as follows:

Any number not less than three to compose a battalion, to have the same officers as is before provided for the same number of companies. Battalions and regiments of cavalry, how formed, and officers elected.

Any number not less than four to compose a battalion, and have one lieutenant colonel, one major, one adjutant, one quarter master and one surgeon.

Any number not less than five to compose a battalion, and to have one lieutenant colonel, two majors, one adjutant, one quarter master, one surgeon and one assistant surgeon.

Any number not less than six to compose a regiment, and have the same officers as is before provided for a regiment.

And each regiment and independent shall have one sergeant major, one quarter master sergeant, and two principal musicians.

And the members of any said battalion or regiment, shall elect the field officers, and the commanding officer thereof shall appoint the commissioned and non-commissioned staff officers for the same, and supply vacancies as often as they occur. Field officers by whom elected, and staff appointed.

And whenever any number of troops or companies have agreed to associate in manner aforesaid, upon notice being given to the proper brigade inspector, or in case the said troops and companies are in different brigades, then to the brigade inspector in whose brigade the election is proposed to be held; who shall order the said troops and companies to meet in some central place, and on a day to be fixed by him, of which fifteen days public notice shall be given by him. Election for field officers.

And at the same time and place, the members of the said troops and companies shall proceed to the election of the field officers authorized by this act. And the said election shall be held and conducted by the said brigade inspector in person, in the same manner that the battalion elections are directed to be held, and duplicate returns thereof made out and signed, one of which shall be filed in his office and the other transmitted to the secretary of the commonwealth. How conducted.

And as often as a vacancy occurs by the death, resignation or otherwise of any such field officer, an election shall be held to supply the vacancy, which shall be conducted and returned in all respects, as is directed and prescribed by this act, in the case of militia battalion elections, only, that instead of the major of the militia battalion, the brigade inspector shall appoint one of the officers of the said volunteer regiment or battalion, who shall alone and without the aid of a judge therein provided for, superintend and conduct said election and make return thereof: *Provided*, That unless required to be held sooner, the said election shall be held on one of the days fixed on for the meeting of the said battalion or regiment of volunteers. Vacancies.

And no troop or Who to superintend election.

1822.

Troop or company not to withdraw.

Regiments and battalions of volunteers entitled to colours.

Commissioned officers may be ordered to drill.

How regiments of volunteers in 1st brigade, 1st division to be formed.

Officers of a regiment.

A regiment of cavalry to consist of six troops.

Of artillery, six companies.

Battalions to be formed.

Regiments of infantry and riflemen to consist of 8 companies.

Field officers how elected.

Staff, by whom appointed.

Regiments and independent battalions of volunteers to meet for inspection.

To be subject to fines for non-attendance.

May make by-laws.

company shall be permitted to withdraw from the battalion or regiment of volunteers to which the same is attached, without the consent of a majority of the field officers thereof.

And each regiment of volunteers shall be entitled to a pair of colours, and each battalion of volunteers to a battalion colour, to be properly and appropriately marked, to be procured and purchased by the proper brigade inspector, at the expense of the state. And the commanding officer of every such regiment or independent battalion, may once in every year, order all the commissioned officers thereof, to meet at a time and place to be fixed on by him, for the purpose of drill. And every officer failing to attend, shall be subject to a fine of three dollars, to be collected by virtue of a warrant from the adjutant, in the same manner as other fines are collected under this act.

XXXIV. Within the bounds of the first brigade of the first division, regiments of volunteers shall be formed of troops and companies of the same description of arms in the manner following, that is to say:

Each regiment of cavalry, artillery, infantry, and riflemen shall have one colonel, one lieutenant colonel, two majors, one adjutant, one quarter-master, one pay-master, one surgeon, two surgeons' mates, one sergeant major, one quarter-master sergeant, and two principal musicians.

Each regiment of cavalry, shall consist of at least six troops, each troop shall consist of one captain, one first lieutenant, one second lieutenant, one coronet, one quarter master sergeant, four sergeants, four corporals, one musician, one saddler, one farrier, and at least thirty privates.

Each regiment of artillery shall consist of at least six companies, each company shall consist of one captain, one first lieutenant, two second lieutenants, one third lieutenant, one quarter master sergeant, four sergeants, four corporals, two musicians, and at least sixty-four privates. The commanding officer of the regiment, to designate one of the second lieutenants of each company, as conductor of artillery for said company. But if there shall not be a sufficient number of companies to form the said regiment, then any number of companies not less than three nor more than five, may be formed into a battalion, and have one lieutenant colonel, one major, one adjutant, one quarter master, one pay-master, one surgeon, one sergeant-major, and two principal musicians.

Each regiment of infantry and riflemen, shall consist of at least eight companies, each company shall consist of one captain, one first lieutenant, one second lieutenant, one third lieutenant, four sergeants, four corporals, two musicians, and at least sixty-four privates.

And the said field officers shall be elected in the same manner, and at the same time, as is provided for the field officers of other volunteer regiments. And the said commissioned and non-commissioned staff officers, shall be appointed by the commanding officers of the said regiments or battalion of artillery.

XXXV. Every regiment and independent battalion of volunteers, shall meet once in every year, if required by the proper brigade inspector, for inspection, at a time and place to be fixed on by the commanding officer of said regiment or battalion, and as much oftener for training, as shall be determined on by the companies or troops composing the same, and at such times and places as the said companies and troops may agree and fix on. And the members of the said troops and companies, shall be subject to the like fines for non-attendance, as in the case of company or troop trainings, and to be collected in the same manner; for the use of the said troops or companies respectively.

And every regiment, battalion, troop, and company of volunteers, shall have power to make all necessary by-laws, rules and regulations, not inconsistent with the constitution and laws of this state, or of the United States, to promote the interest, good order, and discipline of the same, and for fixing on, and giving notice of the times and places for parades and trainings

Volunteer corps shall be ranked in the following order, *to wit*: First, 1822.  
cavalry; second, artillery; third, infantry; and fourth, riflemen. And all  
troops and companies of the same description of force, shall take rank  
according to their priority of organization. All officers of the same grade,  
without regard to the corps to which they belong, shall take rank accord-  
ing to the dates of their commissions respectively. And whenever officers  
have commissions of the same date, their rank shall be established by lot,  
in the presence of the commanding officer; but officers of the volunteers  
of the same grade with officers of the militia, and when their commissions  
are of the same date, shall take rank of such officers of the militia, but  
not otherwise, *Provided*, That all officers, who at any election or appoint-  
ment, shall be elected or appointed to offices of the same grade, shall rank  
according to the dates of their preceding commissions.

Rank of  
volunteer  
corps.

How rank  
of officers  
to be deter-  
mined.

XXXVI. The captain or commanding officer of every volunteer troop  
or company shall, on or before the third Monday in May, in every year, de-  
liver or cause to be delivered to the proper brigade inspector, a complete  
roll of his troop or company, under oath or affirmation, and if the same is  
attached to any battalion or regiment of volunteers, the fact thereof shall  
be stated, and the said captain or commanding officer of any last men-  
tioned troop or company, shall also furnish to the adjutant thereof, on or  
before the said third Monday of May, in every year, a roll of the same.  
And the adjutant of every volunteer battalion or regiment, shall, on or be-  
fore the said third Monday in May, in every year, deliver, or cause to be  
delivered to the proper brigade inspector, or where the troops or companies  
belong to the different brigades, to the brigade inspector of the brigade in  
which the election for field officers was originally held, a roll of the field  
and staff officers thereof. And each of the officers failing to perform the  
duty required by this section, shall forfeit and pay the sum of twenty dol-  
lars; and the said officers shall have the like compensation as is given to  
officers of militia for similar services.

Roll of vo-  
lunteer  
corps to be  
delivered  
annually to  
brigade in-  
spector.

To be fur-  
nished with  
a roll of  
field and  
staff offi-  
cers.

Penalty for  
neglect.

XXXVII. The several volunteer troops and companies in this common-  
wealth, shall meet at least three times in every year for training, one of  
which days shall be at the time and place, when the said troop or company  
is to be inspected by the brigade inspectors, and the other days of training,  
at such time and place as shall be determined on by a majority of the mem-  
bers of the said troops or companies, of which public notice shall be  
given, by the captain or commanding officer thereof, at least ten days be-  
fore any such meeting. But all volunteer troops or companies, not belong-  
ing to any regiment or battalion of volunteers shall be attached by the  
brigade inspector to the most convenient regiment of militia, and shall  
parade and train with the said regiment, or such battalion thereof as shall  
be directed by the commanding officer at the annual trainings, provided for  
by this act, and shall be under the orders of the commanding officer of the  
same, which day of training shall be accounted one of the three days re-  
quired by this section. All volunteer troops or companies belonging to  
any regiment or battalion of volunteers, shall not be obliged to parade or  
train with the militia. And the officers, non-commissioned officers, musi-  
cians and privates of said troops or companies, shall incur the like fines  
for non-attendance, on said days of training, as is directed to be paid by  
the militia of this commonwealth. And the members of the said troops  
and companies, or a majority of them, shall at their first meeting in every  
year, determine whether they will meet on any other days than those re-  
quired by law, and how often, and when, and where. And the said offi-  
cers, non-commissioned officers, musicians and privates, shall incur such  
fines for non-attendance on any of the said days, as may be determined on  
by the by-laws of the troop or company, not being less than half the amount  
of fines for non-attendance on the days of training required by law.

Volunteer  
troops and  
companies  
to meet  
three times  
a year for  
training.

When to  
attach to  
regiments.

Subject to  
like fines.

May meet  
on other  
days than  
those re-  
quired by  
law.

XXXVIII. On every day of parade and training, directed and authorized  
by this act, for volunteer troops and companies, the rolls of the said troops

Rolls to be  
called.

**1822.** and companies shall be called under the direction of the captain or commanding officer thereof, by the first or other sergeant, and all absentees noted, and lists thereof kept, to be presented to the officers of the said troops and companies, when acting as a court of appeal, as hereinafter directed. And all members of said troops or companies who shall leave the ranks during the hours of parade without permission, or shall not be properly uniformed and equipped, shall be considered and marked as absentees, and incur the like fines. And the said sergeant shall, on or before the first Monday in November, in each and every year, make out a complete list of all absentees, on any of the appointed days of training, for the preceding year, stating particularly, the days on which said member was marked as an absentee, and being sworn or affirmed to the said list, shall deliver the same to the said officers acting as a court of appeal on the said first Monday of November in every year. And the captain or the commanding officer shall give public notice to the members of his troop or company, of the place where the said officers will sit as a court of appeal; and on the day, and at the place aforesaid, the officers of every troop and company shall be assembled and compose a court of appeal for their respective troops and companies, and shall take the same oath or affirmation, and they or a majority of them, have the same authority, proceed in the same manner, and remit fines for the same cause as is directed, given and prescribed in the case of battalion courts of appeal for the militia. But no fines shall be remitted, or redress given by any other authority, at any other time or in any other manner. And as soon as the said courts shall have decided upon all cases before them, they shall make out lists of the members of the said troops, or companies, whose fines were not remitted, stating opposite the name of each member, the amount of fines not remitted: to be signed by the officers composing the said court, with a certificate attached thereto, that they had been sworn or affirmed according to law, and shall deliver the same to the captain or commanding officer of the said troop or company. And the said captain or commanding officer shall, within ten days thereafter issue a warrant under his hand and seal in the following form:

**Fines incurred for leaving ranks.**

**List of absentees to be delivered to court of appeal.**

**Notice of its sitting.**

**May remit fines in certain cases.**

**A list of fines not remitted to be certified.**

"The commonwealth of Pennsylvania to A. B. greeting:

"Whereas the persons named in the list or schedule hereto annexed, have incurred the amount of fines set opposite to their respective names as members of the volunteer corps of (designating it by its proper title), as absentees on the days appointed for training, which have not been remitted by the proper court of appeal. This warrant therefore authorizes and requires you to demand and collect of each and every person named in the said list or schedule, the sum set opposite to his name. And in case of neglect or refusal to pay the same, you are to levy and collect the same with costs, of the goods and chattels of each and every such person by distress and sale thereof, returning the overplus if any, to the owner. Witness my hand and seal this                      day of                      eighteen hundred and

**Form of the warrants.**

Captain." { L. S. }

[or commanding officer of the  
volunteer corps, naming it.]

And the said captain or commanding officer shall immediately deliver the said warrant to a constable or other fit person to be executed, and who is hereby required, under the penalty of twenty dollars, to be recovered by the said captain for the use of the company, to execute the same, who shall perform the same duties, have the same authority and compensation, be subject to the like penalties, and proceed in all respects, as is provided and directed by the twenty-sixth section of this act, only, that the said captain or commanding officer, shall be in the place and situation of the brigade inspector mentioned in the said section, and shall have all the rights and

**To be delivered to a constable.**

**His duties.**

powers therein given to the said brigade inspector; as well in proceeding against the said constable or other fit person in recovering the amount of fines collected by him as otherwise: *Provided however*, That every troop and company of volunteers may authorize courts of appeal to be held by any of its members, and at such time and times as may be fixed on by the by-laws thereof, and the fine and fines for non-attendance and neglect of duty, may be collected as often as shall be determined on by the said by-laws; and which courts of appeal shall be conducted, and the fines collected under the provisions of this section; and all fines collected from the members of any volunteer troop or company, shall be for the use of the said troop or company. And the captain or commanding officer of any troop of cavalry or company of artillery, when he has received from the collector any such fines, shall pay the same to the quarter master sergeant thereof. And the captains or commanding officers of any companies of infantry or rifle-men, upon the receipt of any such fines, shall pay the same to the junior lieutenant or other person appointed by the company, to be appropriated and applied by them in defraying the necessary expenses of the said troops and companies under the direction of a majority of the commissioned officers thereof, and they shall render an account thereof to the said officers, under the penalty of fifty dollars at the first meeting of the troop or company in every year.

Appropriation of fines.

XXXIX. It shall be lawful for any member of a volunteer corps, to be at the same time an officer of the militia, with the consent of his company; nor shall the commission of any officer of a volunteer corps, be vacated by his election or appointment as a field or staff officer, of a battalion or regiment of volunteers; but he may continue to hold the same if requested by the militia.

Members of volunteer corps may be officers of the militia.

XL. The uniform and equipments for the militia officers of this Commonwealth, shall be the same as that prescribed for the officers of the United States army; and it shall be the duty of the adjutant general to obtain a description thereof, and furnish each brigade inspector with a sufficient number of copies for himself, and each major and brigadier general, and each field officer and captain of volunteers and militia, the expense whereof shall be paid out of the state treasury. But the governor is hereby authorized to alter the dress for the company officers, so as to render the same less expensive, if he shall deem it proper and advisable; and which uniform so prescribed by him, shall be established for that class of officers, and descriptions thereof furnished to the brigade inspectors immediately for the use of said officers; the expense of furnishing which to be paid in manner aforesaid. And every officer shall be armed and equipped at his own expense; and if any officer shall fail to uniform and equip himself within six months after his election or appointment, if he accepted of the office, he shall be liable to a fine of twenty dollars, to be recovered by the brigade inspector; and every officer so elected or appointed more than six months, shall appear on every day of parade uniformed and equipped as aforesaid.

Commissions not vacated, &c.

Uniform and equipments.

Description thereof to be furnished by adjutant general.

Governor may alter.

Officers to be uniformed and equipped at their own expense.

XLI. Volunteer troops and companies may uniform and equip in such military manner as they may think proper, conforming as nearly as may be to the same kind of force in the army of the United States; *Provided however*, That companies having a uniform dress, and acting as infantry, may be supplied with muskets and bayonets, cartridge boxes and belts, if there be sufficient, after supplying the companies properly uniformed and equipped, upon sufficient security being given therefor, in the manner hereinafter directed; but such company shall not be entitled to the sum allowed by the forty-sixth section, nor shall the members thereof be entitled to the exemption provided for in the forty-seventh section of this act.

How volunteer troops and companies are to be uniformed.

XLII. Every artillery and infantry volunteer company, uniformed and equipped, and the officers thereof commissioned agreeably to this act, shall be entitled to the following arms, viz. To every such artillery company, the

Volunteer corps entitled to arms.

**1822.** proper number of muskets and bayonets, cartridge boxes and belts, and if  
**Artillery.** required, and they can be supplied out of the arsenals, twelve pikes, together with one piece of artillery of the proper calibre, with all the apparatus and equipments complete. And the governor is hereby authorized to cause to be issued to the first lawfully organized artillery company properly uniformed, in each brigade who have a field piece, the proper number of swords and belts in lieu of muskets, for the non-commissioned officers, musicians and privates thereof, upon the order of the proper brigade inspector.

**Infantry.** And to every such infantry company, the proper number of muskets and bayonets, cartridge boxes and belts for the non-commissioned officers and privates of the same. And the proper brigade inspector shall make a requisition upon the adjutant general for the arms aforesaid, who shall give him an order therefor to the keeper of the nearest or most convenient arsenal; and the said brigade inspector shall thereupon draw the said arms and deliver the same to the company aforesaid, and the expense thereof shall be defrayed out of the state treasury, to be paid to the said brigade inspector upon the settlement of his accounts.

**How to be drawn for.**

**Expense how paid.**

**Security to be given for return in good order of arms, &c.** XLIII. Before any arms and accoutrements are delivered to any volunteer company, sufficient security shall be given for the return and delivery of the same in good order and condition, upon the dissolution of the company or whenever lawfully required. And all volunteer companies that have already received arms or accoutrements shall give the like security; on failure whereof, it shall be the duty of the brigade inspector, and he is hereby required to take possession of the said arms, to be disposed of in the manner hereinafter directed; and it shall be the duty of every commanding officer of a company, to take duplicate receipts from the non-commissioned officers and privates of his company for the arms delivered to them respectively, one of which receipts shall be given to the brigade inspector to be filed in his office.

**Duty of brigade inspector to collect arms, &c. and to furnish a list thereof to adjutant general.** XLIV. It shall be the duty of every brigade inspector, and he is hereby required to collect or cause to be collected from time to time, all military arms and other military property of this commonwealth, in the hands or possession of any person or persons not entitled by law to hold the same, for which he shall receive a reasonable compensation; and to furnish a list of the said arms and property when required by the adjutant general, as of all arms and public property in the possession of any volunteer company, who have not given the security required by this act, or are not lawfully entitled to the same; and the said adjutant general may order all such arms and public property to be conveyed at the expense of the state to the nearest arsenal; and the said adjutant general is hereby required to make such regulations relative to the amount and kind of security to be given for arms and accoutrements delivered to volunteer companies, as well as all such other regulations for the disposition, security, and preservation of the arms and military property of this commonwealth, as he may from time to time find necessary and proper to promote the public interest, and which the several brigade inspectors are hereby required to obey and carry into effect under the penalty prescribed in the fifty-second section of this act, besides being amenable to a court martial for neglect of duty.

**Duty of adjutant general.**

**Volunteers to keep their arms in good order at their own expense. Penalty for loaning or selling them in certain cases.** XLV. Every volunteer who may have received public arms and accoutrements, shall keep the same in good order and repair at his own expense. And if any volunteer shall loan his arms to any person whatever, except to a volunteer to parade or drill, or shall knowingly suffer any other person to use the same, except for drill or training, he shall be subject to a penalty of five dollars. And if any volunteer shall sell or dispose of his arms, or shall quit his company by removal out of the neighbourhood or otherwise, without delivering up the same in good order to his commanding officer, he shall forfeit and pay the sum of fifteen dollars, to be recovered by the said commanding officer, as debts of equal amount are recoverable; and for want of sufficient property to pay the same, he shall be committed to the

jail of the county for fifteen days. And if upon the death of any volunteer, his heirs, executors, or administrators, or any of them, shall neglect or refuse to deliver up to the commanding officer of the troop or company to which he belonged, any arms, accoutrements, or instruments of music, which he may have received, they shall forfeit and pay the aforesaid sum, to be recovered from any one of them, in the manner aforementioned. And it shall be the duty of the proper brigade inspector, to pay the expense necessary, for the repairs of any field piece, and the apparatus, and equipments thereof, in the possession of any volunteer artillery company, or of any drums or other instruments of music, authorized to be furnished by law, to the volunteers or militia.

Arms to be delivered up in certain cases under penalty.  
Brigade inspector to pay for repairs of field pieces, &c.

XLVI. [Repealed by 10 April, 1826, § 9.]

XLVII. Every person who shall have been uniformed and equipped agreeably to this act, and faithfully served as a member of any organized volunteer corps, for seven successive years, since the first of January eighteen hundred and eighteen, and shall produce a certificate of such service, from the captain or commanding officer of the corps in which he has so served, he shall for ever thereafter be exempted from militia duty, except in time of an invasion, insurrection, or actual war: *Provided*, The persons exempt from duty in pursuance of this section, shall be enrolled in the same manner as if they were not exempt: *Provided however*, That if the fact of such service shall be disputed, the certificates aforesaid shall be sworn or affirmed to by the officer giving the same, or proof of such service made in some other satisfactory manner. And it shall be the duty of the captain or commanding officer of every troop or company of volunteers, to procure an orderly book, in which he shall cause to be entered the name and place of residence of every member thereof, and the time (being properly uniformed and equipped) he may have joined the troop or company; and on every day of parade or training, when the roll is called, a record shall be kept in said book, of both those present and those absent; and if any volunteer shall not have attended on at least three-fourths of the days of parade or training of his troop or company, for seven successive years, unless absent for some of the causes which would authorize him to be excused agreeably to this act, he shall not be considered as having faithfully served agreeably to the preceding part of this section.

Volunteers having served 7 years from 1st of Jan. 1818, to be exempt.  
Officers commanding volunteers to procure orderly books, &c.

XLVIII. Every person who shall have been properly uniformed and equipped, and have faithfully served as a commissioned officer for seven successive years, in the volunteers or militia of this commonwealth, since the first day of January, eighteen hundred and eighteen, shall for ever thereafter be exempted from military duty, except in time of an invasion, insurrection, or actual war.

Officers, &c. serving 7 years, to be exempt.

XLIX. Each brigade inspector heretofore elected, or who may hereafter be elected in pursuance of this act, shall take an oath or affirmation, to perform his duties with fidelity, and transmit a certificate thereof to the adjutant general, and shall execute all orders relative to duty, received by him from the adjutant general. He shall attend each regimental or battalion parade, and shall annually inspect the said regiments and battalions; and shall also, once in every year, inspect each volunteer troop of cavalry, and company of artillery, infantry, and riflemen, within the bounds of the brigade. But when any such troop of cavalry, or company of artillery, infantry or riflemen, shall be part of a regiment or battalion of volunteers, he may inspect the said troops and companies separately, or in battalion or regiment, as he may think proper. And the said brigade inspector shall direct the time and place, when and where any such troop, company, battalion, or regiment, shall assemble to be inspected as aforesaid; and shall give at least twenty days public notice thereof. He shall annually furnish to the adjutant general, a detailed statement of the militia and volunteers within his brigade, at such time and in such manner, as the said adjutant general shall direct. He shall keep a record of all alterations in the bounds of the brigade, regi-

Brigade inspector to be on oath.  
His duties.  
To appoint places of inspection.  
To furnish annually statements of the militia.  
Keep a

1822.

record of  
the altera-  
tions of  
brigades,  
&c.

To furnish  
statements  
to major  
and briga-  
dier gene-  
rals.

Transmit  
returns, &c.

To be an-  
swerable  
for all mili-  
tary arti-  
cles, &c.  
and make  
return of  
arms, sue  
for and col-  
lect fines,  
&c.

Purchase  
colours,  
drums, &c.

Pay ex-  
penses, &c.

Account  
for moneys.

Annually  
to settle  
their ac-  
counts.

Books, &c.  
to be deli-  
vered to  
their suc-  
cessors.

On failure  
to settle  
accounts,  
&c. bond  
to be sued.

In the case  
of death,  
books, &c.  
to be deli-  
vered.

Compensa-  
tion.

ments or battalions, or of the formation of any new one, and shall give information thereof to the adjutant general, and shall generally furnish him with information upon all subjects connected with military duty in his brigade, whenever required to do so; and shall also furnish like statements to the major general of the division, and brigadier general of the brigade, once in every year when required. The brigade inspectors shall transmit all returns of elections and appointments of officers under this act, as soon as practicable, to the secretary of the commonwealth, and shall distribute to the proper officers, all commissions received by them. They shall take charge of, and be answerable for all military articles which may be delivered to them. They shall make an annual return to the adjutant general, of all arms and other military property in their possession, and of the condition of the same, and of the arms and other military property, distributed in the brigade, in such form and manner as shall be directed by him. The said brigade inspectors shall sue for, and collect in the name of the commonwealth all fines, forfeitures, and other sums, for which no mode of collection is prescribed by this act, and recover the same as debts of equal amount are by law recoverable. They shall procure and purchase all the necessary colours, drums, fifes, trumpets and bugles. They shall pay all expenses and sums of money directed to be paid in their several brigades, to the persons entitled by law to receive the same. They shall keep an accurate account of all monies received and expended by them. They shall account for all fines not remitted by the proper courts of appeal, or imposed by courts martial, and directed to be collected by them, and shall only be released from their accountability for any such fines, by producing a certificate of a board of field officers, to be signed by the president thereof, that it was impracticable to collect the same. They shall annually, in the month of January, settle with the auditor general, who is hereby required to settle and adjust their accounts, and shall pay into the state treasury, any surplus arising from fines and forfeitures, which may remain after payment of the sums and expenses, directed to be paid by them by this act, in their several brigades, first deducting five per cent. on the amount so to be paid into the state treasury. And on the removal or resignation of any brigade inspector, all the books, vouchers, papers, and public property, which may be in his possession, shall be delivered to his successor. And if any brigade inspector as aforesaid, shall fail to settle his accounts annually, with the auditor general, during the time prescribed, or shall neglect or fail to pay into the state treasury, the balance due upon such settlement, upon demand made by the state treasurer, and of which settlement the auditor general shall furnish the state treasurer with an account, or shall neglect or refuse to deliver over to his successor, the books, vouchers, papers, and public property, in his possession, on notice given to the auditor general thereof, the said auditor general, or the state treasurer, as the case may be, shall, and it is hereby made their duty respectively, to cause the bond given by the said brigade inspector and his sureties, lodged in the recorder's office of the county, to be sued out and recovered for the use of the commonwealth, as well as in all other cases of neglect of duty; but any such suit may be stayed, upon the said brigade inspector's performing the duties above required of him. And on the death of any brigade inspector, all the books, vouchers, papers, and public property, which he had in his possession, shall be delivered over to his successor, by the executors or administrators of such deceased brigade inspector, under the penalty of one thousand dollars, to be recovered from them, or either of them, by the said successor, in the name of the commonwealth, as debts of like amount are recoverable. And each brigade inspector shall annually receive as a full compensation for his services, including blanks and stationary, seventy-five dollars per regiment for the three first regiments, and fifty dollars per regiment for every additional regiment of militia and volunteers of his brigade, and for volunteer battalions in proportion, to be paid out of the state treasury.

L. It shall be the duty of each brigade inspector, at the time when he is annually required to settle his accounts, to exhibit to the auditor-general, a statement of the expenses incurred in his brigade, for the preceding year; which statement the said auditor-general is required to examine and adjust, making the allowances intended by the law; and if, upon the settlement of the accounts of the said brigade inspector, it shall be found that the fines and forfeitures have been insufficient to pay the said expenses so adjusted and allowed, *then the said auditor general shall draw his warrant on the state treasurer, for the amount of such deficiency, which the brigade inspector shall immediately thereafter pay to the officers or persons entitled to receive the same.* *Provided however,* That the sums allowed to volunteer corps, by the forty-sixth section of this act, shall form no part of the expenses to be drawn from the state treasury in manner aforesaid.

1822.  
Brigade in-  
spectors to  
furnish a  
statement of  
expenses to  
auditor  
general.  
Who to  
draw his  
warrant in  
case of de-  
ficiency.

LI. If any brigade inspector shall neglect or fail to make the returns to the adjutant-general, or perform any other duty according to this act, it shall be the duty of the said adjutant-general to give notice thereof to the state treasurer, when the compensation of the said brigade inspector shall be forfeited from the time of such notice, until he performs his duty according to law; and he shall only be entitled to the same for the residue of the year; and the said brigade inspectors shall also be amenable to courts martial for neglect of duty, in the same manner as all other offences.

Brigade in-  
spectors ne-  
glecting to  
perform his  
duty not to  
receive com-  
pensation.  
Amenable  
to courts  
martial.

LII. The discipline of the volunteers and militia of this commonwealth, shall be the same as that prescribed for the army of the United States; and it shall be the duty of the adjutant general, to select the best abridged system for the instruction and discipline of cavalry, artillery, infantry and riflemen, making such alterations as may be deemed necessary for the use of the militia and volunteers of this commonwealth, and shall submit the same to the governor, and if approved of by him, a sufficient number of copies to furnish each general and brigade inspector with a copy thereof, and each field officer and captain of a company, with a copy of the system applicable to his particular corps, shall be procured at the expense of the state, and transmitted to the several brigade inspectors, to be delivered to the said officers respectively, who shall receipt for and deliver the same to their successors in office, under the penalty of ten dollars, to be recovered by the person suing for the same.

Discipline.  
System,  
&c. to be  
selected by  
adjutant  
general.  
Approved  
of by the  
governor.  
Who shall  
receive  
copies.

LIII. On each of the days of training authorized and required by law, the commanding officer of every troop of cavalry, may employ one trumpeter; the commanding officer of every rifle company, one bugler; and the commanding officer of every company of artillery, infantry and of militia, one drummer and one fife, who shall be severally entitled to receive the sum of one dollar per day, for each of said days of training, to be paid by the proper brigade inspector, upon the certificate of the commanding officer of the troop or company.

Music to be  
procured  
and paid.

LIV. If any youth of the age of twelve years and not exceeding the age of twenty one years, shall, with the consent and approbation of his parents or guardians, attach himself to any company of volunteers or militia for the purpose of learning to beat the drum, play on the fife, blow the bugle or trumpet, provided the number shall not exceed one person for the drum and one for the fife, or one for the bugle in each company, and one for the trumpet in each troop of horse. Every such person or persons shall be put under the instruction of the drum and fife major, the bugler or trumpeter as the case may be, whose duty it shall be to teach such person or persons, in the best manner in his power. And as soon as such person or persons shall be able to perform field duty to the satisfaction of the commanding officer of the regiment, or of the volunteer troop or company, to which he is attached, he shall draw his warrant in favour of the drum or fife major, the bugler or trumpeter, who may have taught such person or

Persons to  
be taught  
music.  
When paid  
for.

1822. persons as aforesaid, for the sum of ten dollars for every person so taught, to be paid by the proper brigade inspector; and the person so taught shall be furnished with a suit of uniform, to be paid for out of the funds of the brigade; and the father of every youth who shall have been instructed as aforesaid, shall be exempted and excused from training in the militia, so long as his son being a minor, shall continue to perform the duties of a drummer, fifer, bugler or trumpeter in any militia or volunteer company.

The father of every youth instructed, to be exempt.

Articles of regulation. LV. The following articles, rules and regulations, shall be those by which the militia of this commonwealth shall be governed, including volunteers.

Officers may be tried by courts martial.

ART. I. All officers now in commission, or who may be elected or appointed under this act, shall be subject to be tried and punished by a court martial, in the manner herein mentioned; and general courts martial, or courts of inquiry may be composed of officers of either volunteers or militia, at the discretion of the officers ordering the same.

Punishment of commissioned officers.

ART. II. If any field, or other commissioned, or staff officer, when the regiment, battalion, troop or company to which he may belong, or in which he holds a command, shall be paraded, shall misbehave or demean himself in a manner unbecoming an officer, or shall on any such occasion neglect or refuse to obey the orders of his superior officer; he shall for every such offence be cashiered or punished by fine, at the discretion of a general court martial, as the case may require in any sum not exceeding fifty dollars. And if any non-commissioned officer or private, shall on any parade of the troop or company to which he belongs, appear with his arms and accoutrements in an unfit condition, or be intoxicated, or shall disobey orders, or shall use any reproachful or abusive language to any of his officers, or shall quarrel, or promote any quarrel among his fellow soldiers, he shall be disarmed and put under guard by order of the commanding officer present, until the troop or company is dismissed, and shall be fined at the discretion of a regimental court martial, in any sum not exceeding twenty dollars, nor less than five.

Non-commissioned officer or private.

Punishment of field officers for neglecting to assemble their commands.

ART. III. If any general officer, field officer or brigade inspector, shall neglect or refuse to assemble his command when required to do so by the competent authority, or at any time or times authorized and required by law, or if any such officer shall neglect or refuse to perform any duty when directed by the proper authority, or which is required by this act, he shall be cashiered and punished by a fine not exceeding one hundred dollars, or either of them, at the discretion of a general court martial. And if any company officer shall neglect or refuse to assemble his command when required by law, or the competent authority, or if any such officer, or any staff officer of a general officer, or of any regiment or battalion, shall neglect or refuse to perform any duty when directed by the proper authority, or which is required by this act, he shall be cashiered and punished by a fine of thirty dollars, or either of them, at the discretion of the court martial; and any such court martial is further authorized to declare any officer cashiered, incapable of holding a commission in the militia or volunteers, for any term not exceeding seven years.

General courts martial.

ART. IV. Every general court martial for the trial of offences against this act, and not authorized to try delinquents, for neglecting to perform tours of duty, shall consist of not less than five nor more than nine members, and of such rank as the case may require, and shall choose a president who shall be the senior officer, and not under the rank of a field officer. And every regimental court martial shall consist of three members, and shall choose a president who shall be the senior officer, and not under the rank of captain; and every court martial shall appoint a commissioned officer or other fit person to officiate as judge advocate. But no member of said courts shall be entitled to any pay or compensation, but the reasonable expenses incurred by the sitting of the said courts shall be paid by the proper brigade inspector.

Regimental courts martial.

Expenses of courts martial.

ART. V. In every court martial two-thirds of the members must agree in every sentence, or the person charged be acquitted. 1822.

ART. VI. The members of such courts martial shall take an oath or affirmation, which the president is required to administer to them, that they will decide and give judgment with impartiality; and one of the members so sworn or affirmed, shall swear or affirm the president in like manner; and the president of the said court shall require all witnesses to be sworn or affirmed that the evidence they shall give shall be the truth, the whole truth, and nothing but the truth; to be administered by him or the judge advocate. Two-thirds necessary to condemn. Members and witnesses to be on oath.

ART. VII. Every court martial shall have power and authority to issue compulsory process against any persons, who shall neglect or refuse to attend to give evidence in any case therein depending after being duly summoned; which precept, as well for summoning as for enforcing obedience thereto, shall be signed by the president of the said court, and executed by a proper person, to be appointed by him. Courts martial to issue compulsory process.

ART. VIII. No officer or other person charged with any offence, shall be suffered to do duty in the brigade, regiment, battalion, troop or company to which he shall belong, until he shall have had his trial by a court martial: and every person shall be tried as soon as a court martial can be conveniently assembled; and every officer under arrest shall be furnished by the adjutant general, brigade inspector, adjutant or other person, as the case may require, with a copy of the charge or charges exhibited against him, at least ten days before his trial, that he may have an opportunity to prepare for his defence. Persons arrested to do no duty. To be furnished with a copy of the charges.

ART. IX. If any officer, non-commissioned officer or private shall think himself injured by his superior or commanding officer, and shall, on due application made to him, be refused redress, he may complain to the brigadier general, who may, if he thinks it proper, direct the brigade inspector to summon a general court martial that justice may be done. Redress for grievances.

ART. X. No penalty shall be inflicted by a court martial for any offence committed by an officer, non-commissioned officer, or private, whilst acting merely under the jurisdiction of this state, and not for neglect or refusal to perform a tour of military duty in actual service, other than cashiering rendering incapable of holding a commission, for any term not exceeding seven years, and fining, or either of them. And all fines imposed by any such offences, shall be collected and paid into the hands of the proper brigade inspector. Punishment.

ART. XI. All persons charged with any offence, who may be tried and acquitted by a court martial, shall be notified thereof and immediately discharged from arrest. Persons to receive notice of acquittal of.

ART. XII. General courts martial may be ordered in the following manner, to wit: For the trial of a major general, by the governor of the commonwealth; for the trial of a brigadier general, by the major general of the division; and for the trial of any colonel, brigade inspector, or other commissioned officer of the brigade, by the proper brigadier general. But in all cases where charges are preferred against an officer, the officer authorized to order a general court martial, may, if he thinks proper, direct a court of inquiry to examine and report the facts and circumstances; and if upon such report, the said officer shall deem a court martial necessary he shall order the same; and every court of inquiry shall consist of three members to be selected by the officer ordering the said court, who shall be sworn or affirmed diligently to inquire into, and truly report the facts and circumstances of the case referred to them; and courts of inquiry may, in like manner, be ordered by the proper officer, upon the request of any commissioned officer, and the junior officer shall act as recorder of every such court of inquiry. Manner of ordering general courts. Courts of inquiry.

Regimental courts martial may be ordered by the colonel or commanding officer of any regiment of volunteers or militia, or by the commanding

**1822.** officer of any battalion of volunteers, not part of a regiment; and the officers authorised to order courts martial, or courts of inquiry, may refuse to order the same if they think the complaint or circumstances of such a nature as not to require it.

**Sentence to be approved of by the proper officer.** The sentence of every court martial must be approved of by the officer ordering the same, before it is carried into effect: and every said officer may disapprove of any such sentence, or, if having approved of the same, may remit the whole or any part thereof, and pardon the offender.

**Proceedings of the court to be transmitted to brigade inspector.** ART. XIII. As soon as the sentence of any court martial shall be approved by the proper officer, the proceedings of such court, shall be transmitted to the proper brigade inspector, who shall thereupon issue a warrant under his hand and seal, for any fine or fines imposed by the said court martial, to be levied and collected in the same manner as is prescribed and directed for fines for non-attendance on days of training. But if the said court martial was for the trial of a brigade inspector, then the brigadier general shall issue his warrant to any person he may appoint for the amount of the fine imposed, to be levied and collected in manner aforesaid.

**Militia, when subject to U. S. rules.** ART. XIV. The militia and volunteers of this state, while in the actual service of the state or of the United States, shall be subject to the same rules and regulations as the army of the United States.

**Penalty for neglect of duty.** LVI.<sup>1</sup> Every officer or other person, who shall fail or neglect to perform any duty enjoined and required by this act, and for which no penalty is fixed, shall forfeit and pay the sum of twenty dollars, to be recovered by the proper brigade inspector, as directed in other cases.

**Penalty for selling liquor on days of parade within prescribed limits.** LVII. It shall be unlawful for any person or persons, within half a mile of the limits, prescribed by any commanding officer, for the parade of his regiment, battalion, or company of volunteers or militia, to set up or have any booth, or stand, to dispose of any kind of liquor, or to dispose of the same by gift, sale, or in any manner whatever, without the consent of such commanding officer, except at stores or licensed inns. And if any person shall so set up or have any booth, or stand as aforesaid, the commanding officer is hereby authorized to cause the same to be prostrated and removed. And every person offending against the provisions of this section, shall further forfeit and pay the sum of twenty dollars, to any person who will sue for the same.

**Commanding officer to fix limits.** LVIII. The commanding officer of any regiment, battalion, or company, when his command is on parade or duty, is hereby authorized to fix certain limits to his place of parade, not to include any public highway, within which no spectator or by-stander shall enter without permission from the said commanding officer: and if any person shall intrude therein, or if any spectator or by-stander shall abuse, molest, strike, or otherwise ill treat any officer, non-commissioned officer, or private, when on parade, or in the performance of military duty, every person so offending, may be put under guard for any time not exceeding six hours, and shall moreover forfeit and pay the sum of ten dollars, to be recovered by any commissioned officer who will sue for the same, as debts of like amount are by law recoverable.

**Penalty for concealing or fraudulently withholding public property.** LIX. If any person or persons shall have knowingly sold, bought, taken, exchanged, concealed, or otherwise fraudulently or unlawfully received, held, or detained, or shall unlawfully hold, or detain, or shall refuse to deliver up to the proper brigade inspector, any arms, accoutrements, colours, drums, or other military property of this commonwealth, on any account or pretence whatsoever; the person so offending shall forfeit and pay for every such offence, treble the value of such property, to be recovered by the said brigade inspector in the name of the commonwealth of Pennsylvania, before any alderman or justice of the peace, of the proper city or county; and the amount so recovered shall be levied and collected of the

(1) For cases under this section. 2 S. & R. 75; 3 id. 169, n., 176, 590; 5 Whart. 1; 5 Am. Law Jour. 536; 4 S. & R. 83.

offender's goods and chattels, by distress and sale thereof, in the usual manner; but for want of sufficient goods and chattels, the offender shall be committed to the jail of the county, there to remain at the expense of the said county, for any term not exceeding one month, at the discretion of the alderman or justice, unless the amount recovered, with the costs, shall be sooner paid. 1822.

LX. When any doubts shall exist, as to the true construction of any part of this act, on a military subject, it shall be the duty of the adjutant general, to take to his assistance two general officers, and they or a majority of them, shall decide thereon; and which decision shall be conclusive as to the construction of the said act, and shall be recorded by the adjutant general in a book to be kept by him for that purpose; and a copy thereof certified by the adjutant general, shall always be legal evidence of the same. The act to be construed by adjutant general and 2 general officers.

LXI. As soon as any portion of the militia of this commonwealth shall be required for the service of this state, or of the United States, and upon notice thereof by the adjutant general to any brigade inspector, the said brigade inspector shall immediately order the major and captains, or commanding officers of companies, of every battalion of militia, to assemble at a time and place to be fixed on by him, within the bounds of every such battalion, for the purpose of having the enrolled militia in the said companies, justly and fairly classed; and shall further order the said captains, or commanding officers of companies to produce full and complete rolls of all the persons subject to militia duty, in their said companies, to be sworn or affirmed to by them respectively: And the colonel of the regiment shall attend the meeting aforesaid for the first battalion; and the lieutenant colonel the meeting aforesaid, for the second battalion; and the said officers being so assembled, with the rolls aforesaid, the men composing said companies, shall be divided into ten parts, and the name of each and every person enrolled in said companies, shall be written on a small slip of paper, and carefully rolled up; and then shall be deposited by companies, beginning with the first company, in a box to be procured for that purpose, and the senior officer then present, shall draw from the said box, the names therein contained; and a person to be appointed by the senior officers present shall take down the names as drawn out; and the persons first drawn, making one tenth of the said company, shall form the first class. And the persons next drawn, making one tenth of said company, shall compose the second class; and so on in the same manner, until all the names in the said box shall be drawn and classed. And as soon as the said drawing for all the companies, in manner aforesaid, shall be completed, two lists of the said companies, thus classed, shall be made out to be signed by the proper commanding officer of the company and countersigned by the senior officer of the regiment present; one of which lists of each company, shall be delivered to the proper brigade inspector, by the said senior officer, as soon after as possible: and the other list shall be kept by the commanding officer of the company. And the officers engaged in drawing and taking down the names as aforesaid shall be first severally sworn or affirmed to perform the duty required of them, with fairness, impartiality, and fidelity. And the men of the several companies shall be liable to perform tours of duty in the order in which they are classed, beginning with the first class, and proceeding in numerical order; but no class shall be called on to perform any second tour of duty, until every other class in the company shall have first performed a tour of duty; nor shall any militia-man or volunteer, who performed a tour of duty by himself or substitute, or paid an equivalent therefor, during the late war, be compelled to perform any tour of duty, until all who have not served in the late war, shall have performed a tour of duty, or paid an equivalent therefor. And if any officer shall fail promptly to obey the order of the brigade inspector, requiring his attendance, or in producing the rolls of his company, as aforesaid, he shall forfeit and pay the sum of three hundred dollars. And if any officer shall have acted unfairly, and Proceedings when militia required for service of the U. S.  
Rolls to be made out.  
Companies to be divided into 10 parts.  
Formation of classes.  
Two lists of classes to be made out, &c.  
Officers classing to be on oath.  
How men liable to perform tours of duty.  
Penalty for disobedience of orders, fraudulent

**1822.** fraudulently in classing the militia as aforesaid, he shall forfeit and pay the sum of one hundred dollars, to be recovered by the party aggrieved as debts of equal amount are or shall be by law recoverable: and his commission shall be vacated. And it shall be the duty of the adjutant general, under the direction of the governor, to prescribe the manner in which commissioned officers shall be selected and assigned to any portion of the militia, to be called into service, to be announced in general orders, paying due regard to the rank of such officers, and which the several brigade inspectors, and all other officers shall execute, observe and be governed by, under the penalties before mentioned. And each of the said officers shall be entitled to one dollar per day, for his services in classing the militia as aforesaid.

**LXII.** The militia of this commonwealth may be called into actual service by the governor thereof, in case of a rebellion, or of an actual or threatened invasion of this or any neighbouring state; but no part thereof shall be detained in service, at any one time, longer than three months, under the mere requisitions of the governor, without the direction or assent of the president of the United States.

Whenever any part of the militia of this commonwealth shall be required for public service, by the president of the United States, if no particular description of troops shall have been required, the governor shall detach the number of men demanded in such proportions of the several description of troops, as he may think proper.

The commanding officer of any detachment, when called into actual service, shall have the power of supplying all vacancies which may occur in his detachment, and the persons nominated by him shall be commissioned by the governor. Troops of cavalry and companies of artillery, infantry and riflemen, shall be detached at the discretion of the commander-in-chief. If either or any of them shall be necessary as a part of the force required for public service, those companies nearest the rendezvous, that may be specified, shall in each instance, be the first detached; but no company shall be called to perform a second tour, until every other company, in its proper brigade, shall have performed its tour of service, unless in the opinion of the commander-in-chief, the urgency of any particular case may require it.

The time, manner, and regulations necessary for marching militia called into actual service, to the place of general rendezvous, unless defined in this act, shall be prescribed and published in general orders, by the commander-in-chief of the militia of this state.

When the president of the United States shall have made a requisition of a part of the militia of this state, for public service, the adjutant general shall take the most prompt and efficacious measure, for detaching and supplying with all necessary arms, equipments, ammunition and provisions, the number of men required, and for having them marched to the place or places of rendezvous. The general of division, or of brigade, to whom orders may be issued, shall take immediate measures, for having the number of militia required, called out and inspected by the proper brigade inspector: *Provided*, That volunteer troops and companies, shall be the first detached, and may be kept in service any time not exceeding six months.

Whenever any portion of the militia of this state, shall have been ordered into actual service, under a requisition from the president of the United States, or otherwise, the proper brigade inspector shall notify the commissioned officers, whose tour of duty it may be to serve in the detachment required, and all captains, or commanding officers of companies of the militia, within the bounds of such draft, whether required to serve in the detachment or otherwise, shall furnish to the proper brigade inspector, on or before the day appointed for inspection, an authenticated roll of the non-commissioned officers, musicians and privates, selected or drafted out

of his company, and it shall be the duty of the said captains, or commanding officers of companies to cause a written or printed notice to be served upon or left at the usual place of residence of each and every officer, non-commissioned officer, musician, and private, liable to serve, requiring every such person to attend at a time and place, to be in the said notice specified, and every such notice shall be served at least three days prior to the day fixed for marching to the place of rendezvous, unless upon any sudden emergency, when the said notice shall require immediate attendance for service. The form of the notice for non-commissioned officers and privates, shall be as follows:

"Take notice that you are hereby required personally, or by a sufficient substitute, to appear properly armed and equipped for service, at the day of to march when required. Given under my hand, &c.

A. B. captain or commanding officer."

The governor shall select such general officer or officers as the nature of each case shall require, to proceed to the place of rendezvous, and take the command of the troops called into actual service. The officer who shall be selected for the chief command, shall immediately proceed to organize the detachment; whenever any detachment of the militia shall have been called into actual service, it shall be the duty of the proper brigade inspectors, to organize within their respective brigades, the militia detached therefrom, in such a manner as that the requisite number of company officers for the militia detached, shall march therewith to the place of general rendezvous.

The pay, rations and forage of the officers, non-commissioned officers and privates of the volunteers and militia called into the service of the United States or of this state, shall commence two days prior to their marching to the place or places of rendezvous, and each of the said officers, non-commissioned officers and privates, shall receive pay, rations and forage at the rate of sixteen miles per day, on their return home. For the service of the horse of each officer and member of a troop of cavalry, there shall be paid to the owner thereof, twenty-five cents per day; and for the service of each horse used by a company of artillery, there shall be paid twenty-five cents per day.

The governor of this commonwealth may, if he shall think proper, direct the cavalry, artillery, infantry or riflemen who may be called into actual service, to be formed into battalions or regiments.

Whenever any portion of the militia shall be ordered into actual service, it shall be the duty of the governor, through the adjutant general, to notify the brigade inspector, from whose brigade any such detachment may be required, whether the call of militia so made, is by order or requisition from the general government, or by the authority of the governor of this state, and also the time of service for which the said detachment may be required.

When any part of the militia shall have been called into actual service, the officer who may have the command of the detachment, about to march to the place of rendezvous, shall nominate to the proper brigade inspector, one of his staff or subaltern officers to act as paymaster, and also a subaltern to act as quarter master for the detachment, until it shall have arrived at the place of rendezvous, (if the detachment consist of but one company, a sergeant thereof shall act as quarter master) to whom, if he shall approve the choice, the brigade inspector shall advance such sum or sums as may be necessary for the pay and subsistence of the troops upon their march, taking duplicate receipts therefor from the pay master or quarter master, which shall also be endorsed by the commanding officer of the detachment. The officer so appointed pay master, or quarter master, shall keep exact accounts of the mode of expenditure, and when he shall have arrived at the place of rendezvous, shall transmit a statement thereof to the proper brigade

1822.

Form of notice.

General officers to be appointed by the governor. Brigade inspectors to organize.

Pay and rations.

Volunteers may be formed into battalions and regiments.

When calls are made the adjutant general to give notice to brigade inspector.

Paymaster and quarter master.

To keep accounts.

1822. inspector, charging two and one half per centum for the services thus rendered; and if any balance shall remain in his hands, he shall pay it over to such person, or in such manner as the proper brigade inspector shall have instructed him.

**How and by whom horses to be appraised.** The brigade inspector, and two reputable and disinterested citizens to be nominated by him, shall appraise the horse of each officer, who is entitled by the rules of war to keep a horse; and the horse of each member of a troop of cavalry, and each horse belonging to the artillery, immediately before every time of going into actual service, and enter such appraisement in a book; and in case such horse shall be killed or die in actual

**If killed, &c. in service the owner shall be paid.** service, or be taken by the enemy, otherwise than by neglect of the owner; on his producing to the officers of the department of accounts, a certificate of the loss of said horse, signed by the commanding officer of the detachment to which he belonged whilst in actual service, together with a certificate of the valuation so as aforesaid directed to be made; he shall thereupon be paid the full amount of such appraisement, by an order to be drawn in the usual manner on the state treasurer, out of any money not otherwise appropriated.

**Pay and rations.** LXIII. The officers, non-commissioned officers and privates, when called into actual service, either on a requisition from the president of the United States, or under the orders of the governor of this state, shall receive the like pay and rations, and other emoluments as are or shall be allowed and granted by the said United States, to the officers, non-commissioned officers and privates of the regular army at the time they shall be in service, and the non-commissioned officers and privates shall be armed and equipped at the expense of the state, during said service.

**Period of service for which to receive clothing.** Whenever the militia of this state shall be called into actual service for the term of three months or more, they shall severally receive one uniform coat, one pair of overalls, and one pair of shoes. When called for the term of one year, they shall severally receive a full suit of uniform, consisting of one cap or hat, one stock and clasp, one vest, one uniform coat, two shirts, one pair of woolen overalls, one pair of linen overalls, one pair of stockings, one pair of socks, one frock, and one pair of shoes; which articles of clothing shall be distributed by orders of the adjutant general when the several corps shall have arrived at their respective places of rendezvous.

**The governor to draw for money, &c.** That in all cases of emergency where money may be wanted to organize, furnish or supply the militia of this commonwealth, who may be called into actual service, the governor is hereby authorized to draw his warrant on the state treasurer for the sum or sums of money, and to dispose of it in such manner as the exigency of the case may require.

**Of substitutes.** LXIV. It shall and may be lawful for any person called to perform a tour of duty to find a sufficient substitute, such substitute being approved of by the captain or commanding officer of the company in which he shall have offered to serve: *Provided always*, That if any substitute shall be called in his own turn, into actual service before the term expires, which he was to serve for his employer, then the person procuring such substitute shall march, or find a sufficient person to march in his said substitute's turn, or be liable to pay his fine for neglect; which fine is to be recovered as other fines for neglect of serving are by this act recoverable; and sons who are not subject to the militia law, may be admitted as substitutes for their fathers if approved of by the commanding officer of the company in which they shall be offered to serve.

**Penalties for officers neglecting, &c.** LXV. If any commissioned officer of the militia, shall have neglected or refused to serve when called into actual service, in pursuance of any order or requisition of the president of the United States, he shall be liable to the penalties defined in the act of congress of the United States, passed on the twenty-eighth day of February, one thousand seven hundred and ninety-five, that is to say, each and every officer having so offended, shall

forfeit a sum not exceeding one year's pay nor less than one month's pay, to be determined and adjudged by a court martial, and shall moreover be liable to be cashiered by sentence of a court martial, and to be incapacitated from holding a commission in the militia for a term not exceeding twelve months, at the discretion of the said court, or shall be liable to any penalty prescribed by the acts of the congress of the United States now in force, or that hereafter may be passed for the government of the militia thereof. 1822.

Each and every non-commissioned officer, *musician* and private of the militia, who shall have neglected or refused to serve, when called into actual service in pursuance of an order or requisition of the president of the United States, shall be liable to the penalties defined in said acts of congress, or any acts that may be hereafter passed. Non-commissioned officers and privates.

Within one month after the expiration of the time for which any detachment of the militia shall have been called into the service of the United States, or *after such detachment shall have been discharged by the proper authority*, the proper brigade inspector shall summon a general court martial for the trial of such person or persons belonging to the detachment called out, who shall have refused or neglected to march therewith, or to furnish a sufficient substitute, of which delinquents, the proper brigade inspector shall furnish to the said court martial an accurate list. And as soon as the said court martial shall have decided in each of the cases which shall have been submitted to their consideration, the president thereof shall furnish to the *proper brigade inspector, and also to the accountant department*, a list of the delinquents fined, in order that the further proceedings directed to be had thereon, by the laws of this state or of the United States, may be completed. When and by whom general courts martial to be summoned. To whom lists of delinquents fined to be furnished.

LXVI. Each and every commissioned officer, who shall have neglected to perform his tour of duty, when called into the service of this state, by the governor thereof, shall pay a fine of thirty dollars for each and every month which he was called on to serve, and every private and non-commissioned officer who shall so neglect, shall pay the sum of sixteen dollars, for every month which he shall have been called on to serve: and it shall be the duty of the proper brigade inspector, immediately after the marching of any detachment, in the service of the state, to order a court martial, to consist of not less than five commissioned officers of the brigade, one of whom shall be a field officer, to meet at a time and place to be fixed on by the said brigade inspector; and of which public notice shall be given. And the court martial being assembled, shall be sworn or affirmed, to hear and determine all cases that may be submitted to them with justice and impartiality and according to law: And the said court shall be organized as courts martial in the United States' service. And the said brigade inspector shall furnish to the said court a list of all persons who neglected to perform their tour of duty in the state service, according to law. And the said court martial shall decide upon all cases brought before it, and having so decided the said court shall make out two lists of all such delinquents whose fines were not remitted, to be signed by the president of the said court, with a certificate, that the members of the said court were sworn and affirmed according to law: One of which lists shall be transmitted to the auditor-general, and the other delivered to the said brigade inspector; and the said brigade inspector shall, thereupon, issue one or more warrants, under his hand and seal for the collection of the said fines, to a constable or other fit person, which fines shall be collected and recovered, and all proceedings had on the said warrant or warrants in the same manner in all respects as is prescribed and directed in the case of fines for non-attendance on days of training. But if any person or persons against whom any such warrant shall issue as aforesaid, shall not have sufficient goods and chattels to pay and satisfy the amount of the fine incurred; every such person for want of the same, shall be committed to the jail of Penalty refusing to perform military duty on call of the governor. Courts martial may be ordered. Members to be on oath. How organized. Duty of brigade inspector. List of delinquents to be made out, &c. Proceedings for collecting fines.

**1822.** the proper county, for the term of twenty days for every month he was called on to serve in the militia, unless the said fines and costs are sooner paid, there to be supported by the said county. And every commissioned officer, who shall neglect or refuse to perform his tour of duty, when called into the service of this state, shall, in addition to the fine prescribed by this section, be cashiered and rendered incapable of holding a commission for any term not exceeding seven years, at the discretion of the court martial. And each member of the court martial, and the judge advocate, shall be entitled to one dollar per day, for every day necessarily employed on said court.

**LXVII.** Whenever the militia of this commonwealth shall be ordered into the service of the state, it shall be the duty of the governor to appoint one or more pay masters, who shall, before he enters upon the duties of his appointment, give bonds to the governor with sufficient sureties in such amount as the governor shall think proper and necessary, conditioned for the faithful disposition of all money placed in his hands, and for the true performance of his duty. And every said paymaster shall receive from the state treasury, upon warrants to be drawn by the governor, such sums as will be necessary to pay the militia in the service of the state; and he shall attend at the camp of the said militia, before they are discharged, if practicable to pay them. And it shall be the duty of the several commanding officers of regiments, battalions, detachments, or companies in service, to furnish the pay-master with complete rolls, duly certified, of all officers, non-commissioned officers, musicians, and privates, stating the time they have respectively served, and for which they are entitled to pay, in order to make payment to them; and the said rolls shall be countersigned by the commanding officer.

**LXVIII.** If any male person shall attempt to persuade any non-commissioned officer or private, when called into actual service, to desert, or shall attempt in any manner whatever, to dissuade or hinder any officer, non-commissioned officer or private, from marching with his proper detachment, when called into actual service; every person so offending, shall forfeit and pay the sum of one hundred dollars, to be sued for in the name of the commonwealth of Pennsylvania; to be recovered as debts of equal amount are by law recoverable by the proper brigade inspector, to be accounted for by him, in the settlement of his accounts. But for want of sufficient property to pay the same, such offender shall be committed to the jail of the proper county, there to remain for the term of thirty days, unless the said sum, with costs, shall be sooner paid.

**LXIX.** No *certiorari* or other writ, shall in any case issue from any court of law in this commonwealth, to remove any proceedings that shall be had in any court of appeal, or court martial, held under, and by virtue of the laws of this commonwealth, or under and by virtue of any law of the United States; and no court of law of this commonwealth or alderman or justice of the peace within the same, shall in any case hear or determine, or in any matter, take cognizance of appeals that may be offered or attempted from any sentence or decree, passed or made by any such court of appeal, or court martial; any law, usage or practice, or any construction of any clause of this act to the contrary in any wise notwithstanding. And if any justice of the peace, alderman, or judge of any of the courts of this commonwealth, shall issue, or cause to be issued, any writ or process, with a view to, or shall re-hear, examine, or obstruct the decision of any court of appeal, or court martial; any and every such justice of the peace, alderman, or judge, so having offended, shall be deemed, and held to be guilty of a misdemeanor in office; *Provided*, That nothing herein contained shall impair or affect the provisions of an act for the better securing personal liberty and preventing wrongful imprisonments, passed the eighteenth of February, one thousand seven hundred and eighty-five.

All suits that may be brought against any person or persons, for any thing done in pursuance of this act, shall be commenced and tried in the county where the cause of action shall have arisen, and not elsewhere; and the defendant or defendants, may plead the general issue, and give this act, and the special matter in evidence; and if the jury shall find for the defendant or defendants, or if the plaintiff or plaintiffs shall be non-suited, or shall discontinue his or their action or actions, after the defendant or defendants shall have appeared, or if upon demurrer, judgment shall be given against the plaintiff or plaintiffs, the defendant or defendants, shall have treble costs,<sup>1</sup> and shall have the like remedy for the same, as any defendant or defendants hath or have in other cases, to recover costs by law, and the proceedings of courts of appeal and courts martial, shall, in no case whatever, be set aside or declared void by any judge or court of law, on the ground of informality, in such proceedings; and every judge who shall declare any such proceedings void, on the grounds before mentioned, shall be deemed guilty of a misdemeanor in office: *Provided*, Such courts of appeal, or courts martial, shall be constituted under the authority of the United States, or of this state. And it shall be the duty of the prosecuting attorney of the commonwealth, in the county in which any suit may be brought against an officer, for any thing done in pursuance of this act, to appear to, and defend the said suit on behalf of the commonwealth.

1822.

How, &c.  
suits to be  
tried.Proceed-  
ings not to  
be set aside  
for informal-  
ity.

LXX. No civil process shall be served upon any officer, non-commissioned officer or private, when going to, whilst attending at, or when returning from any parade, for disciplining any part of the volunteers or militia.

Officers,  
&c. when  
exempt  
from pro-  
cess and  
execution.

No execution or other process shall issue against any officer, non-commissioned officer, or private of the militia, when called into actual service, under a requisition from the president of the United States, or in pursuance of the orders of the governor of this commonwealth: nor shall any such process issue against him, until thirty days after he shall have returned from duty, to his usual place of residence, or until forty days after he shall have been discharged; and the court, alderman, or justice of the peace, from which or from whom any such process shall have issued, shall quash the same, as soon as the fact of any such person being ordered on public duty, shall have been proven, and all the costs which shall have accrued in commencing or conducting any such process, shall be paid by the person or persons, who shall have applied for the said execution or other process.

The uniform, arms, and accoutrements of every volunteer or any person enrolled in the militia of this commonwealth, and the horse furniture of every person entitled to use a horse in the militia or volunteers of this state, shall be exempt from all suits, distress, executions, or sales for debt, or for the payment of taxes.

LXXI. If any person subject to be enrolled as is provided for in the ninth section of this act, shall, on or before the first day of April, in any year, pay to the county treasurer for the use of the commonwealth, the sum of two dollars, and produce a receipt therefor, to the captain or commanding officer of the company to which he belongs, on or before the day of company training, but not otherwise, such captain or commanding officer, shall set down in his roll, such person as exempt from military duty for one year, from said first day of April, and shall in his return to the proper court of appeal, designate such person as exempt from duty, and said court of appeal shall return each exempt as such to the brigade inspector; who shall transmit the same to the auditor general: *Provided*, That nothing in this act contained, shall exempt such person from being enrolled as a militia man, or from being called into actual service in time of war, as others who are not exempted as herein provided: *Provided also*, That the

Exempt.

(1) The costs are to be trebled, and not counted according to the English rule. 2 Rawle, 201.

1822. person so exempted shall not be entitled to vote at any election for military officers during the time he shall be so exempted. And said receipt shall be in the following form, to wit: " \_\_\_\_\_ has paid me two dollars for the use of the commonwealth, and is exempt from military duty for one year, \_\_\_\_\_ Treasurer of \_\_\_\_\_ county." And the treasurer of the county, shall account for the monies received in pursuance of this section, at the same time, in the same manner, and under the same penalty as he shall account for monies received from tavern licenses, and shall be entitled to the same commission.
- Form of receipt.
- Treasurer to account.
- Brigade inspector to take charge of the state arsenals.
- Additional compensation.
- Repeal.
- Duty of the adjutant general to visit the arsenals.
- To make report to the legislature.
- Compensation.
- Adjutant general to designate the kind of arms to be received from the U. States.
- Officers to deliver to their successors, records, &c.
- LXXII. It shall be the duty of the brigade inspectors to take charge of the state arsenals or depot of arms and military stores, the property of this commonwealth, established within their respective brigades; and the brigade inspectors who shall have charge of the arsenals at Philadelphia, Harrisburg, and Meadville, shall each receive the sum of one hundred dollars, in addition to their other compensation allowed by this act, and their duties shall be the same as that directed to be performed by the fourth section of the act, entitled "An act to provide for the erection of two arsenals," so much of the said act as provides for the appointment and compensation of state armourers, being repealed.
- LXXIII. It shall be the duty of the adjutant general, as soon after the passage of this act, as conveniently may be, and as much oftener as he may deem it advisable, to visit the arsenals<sup>1</sup> of this commonwealth, and examine and inspect the arms and public property therein deposited; and he shall establish such regulations for the preservation and safe keeping of the same, as he may find necessary and proper; and which the brigade inspectors having the same in charge, are hereby required to strictly observe and attend to, under the same penalty as in other cases for neglect of duty; and the said adjutant general in his annual report to the legislature shall return the state and condition of the said arms and public property, and shall make such other representations as he may deem necessary for the information of the legislature. And the said adjutant general shall receive as a compensation, in addition to his annual salary for his services and expenses in performing the duty herein required for the ensuing year, two hundred and fifty dollars, to be paid out of the state treasury.
- LXXIV., LXXV., LXXVI., LXXVII., LXXVIII. [Are temporary, except the part of the 75th section which is retained.]
- LXXV. And it shall be the duty of the adjutant general, under the direction of the governor, to designate and receive such kind of arms from the United States, as shall be deemed necessary and proper for the military service of the commonwealth, and cause the same to be deposited in the most convenient arsenals, to be disposed of agreeably to the provisions of this act.
- LXXIX. All officers of the volunteers or militia elected or appointed under any former law, or who may hereafter be elected or appointed, or in case of their death, their executors and administrators are hereby required under the penalty of one hundred dollars, to deliver over to the successors of such officers, all books, records, documents and papers in anywise appertaining to their said offices; which penalty shall be recovered for the use and in the name of the commonwealth of Pennsylvania, by any person who may sue for the same: *Provided, however,* That the provisions and penalties contained in the twelfth and fiftieth sections of this act, relative to adjutant general and brigade inspectors, shall not be altered, affected or impaired hereby.
- LXXX. [Obsolete.]
- LXXXI. and LXXXII. [Repeal former laws.]
- Passed 2d April, 1822.—7 Sm. L. p. 607.

(1) The Meadville arsenal once in three years. 14 April, 1827, § 6; 9 Sm. 398.